

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 -----)
5 IN RE: NATIONAL) MDL No. 2804
6 PRESCRIPTION OPIATE)
7 LITIGATION) Case No.
8 -----) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES TO) Hon. Dan A. Polster
11 ALL CASES)
12 -----)

13 HIGHLY CONFIDENTIAL
14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15 The videotaped deposition of PATRICIA DAUGHERTY,
16 called by the Plaintiffs for examination, taken
17 pursuant to the Federal Rules of Civil Procedure of
18 the United States District Courts pertaining to the
19 taking of depositions, taken before CORINNE T.
20 MARUT, C.S.R. No. 84-1968, Registered Professional
21 Reporter and a Certified Shorthand Reporter of the
22 State of Illinois, at the offices of Bartlit Beck
23 Herman Palenchar & Scott, Suite 600, 54 West
24 Hubbard Street, Chicago, Illinois, on
25 November 15, 2018, commencing at 9:08 a.m.

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9 VIDEOTAPED BY: MICHAEL NEWELL

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1 I N D E X

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E X H I B I T S

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WALGREENS-DAUGHERTY EXHIBIT	MARKED FOR ID
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No. 1	LinkedIn Profile	11
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9

No. 2	US DOJ, July 2006 Follow-Up	23
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10

Review of the Drug Enforcement
Administration's Efforts to
Control the Diversion of
Controlled Pharmaceuticals;

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P1.1088 - P1.1088.95

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No. 3	3/21/13 e-mail string;	40
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WAGMDL00303029 - 00303031

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No. 4	1/10/13 e-mail with	80
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attachment;

WAGMDL00049752 - 00049773

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No. 5	21 USCA Section 801	110
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No. 6	Document, Chapter II - Drug	128
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Enforcement Administration,
Department of Justice;

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P-GEN-0064

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No. 7	Masters Pharmaceutical v. DEA,	140
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and Abuse," etc., 8/28/01

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1		E X H I B I T S	
2		WALGREENS-DAUGHERTY EXHIBIT	MARKED FOR ID
3	No. 9	GAO Report to Subcommittee on	218
4		Oversight and Investigations;	
5		P1.1076 - P1.1076.27	
6	No. 10	9/27/06 letter from US DOJ	245
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8	No. 11	12/27/07 letter from US DOJ	260
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10		MCKMDL00478910 - 00478911	
11	No. 12	8/16/17 e-mail with	271
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13		00208715	
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1 THE VIDEOGRAPHER: We are now on the record.
2 My name is Michael Newell. I'm a videographer for
3 Golkow Litigation Services.

4 Today's date is November 15, 2018. The
5 time is 9:08 a.m.

6 This deposition is being held in
7 Chicago, Illinois in the matter of National
8 Prescription Opiate Litigation for the Northern
9 District of Ohio, Eastern Division.

10 The deponent today is Patricia
11 Daugherty.

12 Will counsel please identify themselves.

13 MR. MOUGEY: Peter Mougey on behalf of the
14 Plaintiffs.

15 MS. POERSCHKE: Page Poerschke on behalf of
16 the Plaintiffs.

17 MS. DUNNING: Laura Dunning on behalf of the
18 Plaintiffs.

19 MS. SHELQUIST: Madison Shelquist on behalf of
20 the Plaintiffs.

21 MS. TRAUB: Kristen Campbell Traub with
22 Prescription Supply, Inc.

23 MR. YINGLING: Patrick Yingling for
24 AmerisourceBergen.

1 MR. SCHUTTE: Scott Schutte for Rite Aid.

2 MR. ZHOU: Jason Zhou for Walmart.

3 MR. BUSHUR: Joseph Bushur for Cardinal
4 Health.

5 MS. SWIFT: Kate Swift for Walgreens.

6 THE REPORTER: People on the phone.

7 MR. ERB: Chip Erb for Discount Drug Mart.

8 MR. MOUGEY: Can we also get who's on --

9 MS. MOBLEY-RITTER: Devon Mobley-Ritter for
10 McKesson.

11 MR. MOUGEY: -- video stream.

12 MR. RUIZ: Anthony Ruiz from Zuckerman Spaeder
13 for CVS.

14 MR. MOUGEY: Is there anybody else on video
15 stream that's not -- that didn't answer
16 telephonically?

17 Thank you.

18 MS. SWIFT: There is another gentleman in the
19 room that I don't recognize who didn't announce
20 himself.

21 MR. KAUFFMANN: Michael Kauffmann. I am the
22 technician.

23 MS. SWIFT: Thank you. Appreciate it.

24 THE VIDEOGRAPHER: The Court Reporter is

1 Corinne Marut and will now swear in the witness.

2 (WHEREUPON, the witness was duly
3 sworn.)

4 PATRICIA DAUGHERTY,
5 called as a witness herein, having been first duly
6 sworn, was examined and testified as follows:

7 EXAMINATION

8 BY MR. MOUGEY:

9 Q. Good morning, Ms. Daugherty. My name is
10 Peter Mougey. Am I pronouncing your last name
11 correctly?

12 A. Yes.

13 Q. You've spent your entire career but for
14 about 20 months with Walgreens, correct?

15 A. Yes, that's correct.

16 Q. And you have your PharmD, is your basis
17 of your educational training, correct?

18 A. Yes.

19 Q. And explain the difference between a
20 pharmacist and a PharmD.

21 A. So, there is a Doctorate in Pharmacy,
22 which is a PharmD; and then when I was in school,
23 you were able to get your Bachelor's in pharmacy.
24 My understanding is most pharmacy schools don't

1 provide that anymore. So, it's PharmD.

2 Q. And you left Walgreens for a brief,
3 about 20 months and started back with Walgreens in
4 January of 2013, correct?

5 A. Yes, that sounds right.

6 Q. And you had two different jobs outside
7 of Walgreens during that 20 months, correct?

8 A. Yes.

9 Q. And those were both in the PBM space
10 essentially, correct?

11 A. Yes.

12 Q. I'm going to hand you what we'll mark as
13 Daugherty 1.

14 (WHEREUPON, a certain document was
15 marked as Walgreens-Daugherty
16 Deposition Exhibit No. 1: LinkedIn
17 Profile.)

18 BY MR. MOUGEY:

19 Q. Do you recognize this document,
20 Ms. Daugherty?

21 A. Yes.

22 Q. And this is your background or CV off of
23 LinkedIn, correct?

24 A. Yes, that's correct.

1 Q. And you put in the information into
2 LinkedIn with your background, correct?

3 A. Yes. This looks like what I entered
4 into LinkedIn.

5 Q. Yes, ma'am. This is an accurate
6 description of your job or work experience with
7 Walgreens in the 20-month stint with the two PBMs?

8 A. Yes.

9 Q. Let's start, if we could, on the second
10 page of Daugherty 1. Your first role with
11 Walgreens, Walgreens Health Initiatives for nine
12 years six months, you were a network audit and
13 compliance manager, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. Yes.

17 BY MR. MOUGEY:

18 Q. And you were in that role for six years
19 and six months, correct?

20 A. I believe it says -- yes, six years and
21 six months.

22 Q. It's a little confusing. Two dates on
23 there. It's six years and six months off to the
24 right, correct?

1 A. Yes.

2 Q. Let me just walk through the different
3 titles you've had, and then I'll go through your --
4 a little bit more detail into your background.
5 Okay?

6 Your next role was network audit and
7 compliance manager, correct?

8 A. At Catalyst Rx, yes.

9 Q. Yes, ma'am. And I'm sorry. I've
10 screwed this up.

11 So, let's start at the very bottom.
12 Clinical operations pharmacy manager with
13 Walgreens, 2002 to 2005, correct?

14 A. Yes. That was with Walgreens Health
15 Initiatives.

16 Q. Yes, ma'am. And then your next role
17 with Walgreens was network audit and compliance
18 manager from January '05 to June of '11, correct?

19 A. Yes, with Walgreens Health Initiatives.

20 Q. Thank you. In June of '11 is when you
21 left Walgreens and went to Catalyst Rx as the
22 director of network audit and compliance, correct?

23 A. Yes.

24 Q. And you were there from June '11 to

1 May 2012, correct?

2 A. That's correct.

3 Q. And then after May of 2012, you left and
4 went to Catamaran, same title, director, network
5 audit and compliance, correct?

6 A. Yes.

7 Q. And then you came back to Walgreens in
8 January of 2013 up and to the present time,
9 correct?

10 How did you become aware --

11 A. Yes.

12 Q. -- of the role at Walgreens in
13 January of 2013 or whenever you started to apply?

14 A. For the role of the Pharmaceutical
15 Integrity position?

16 Q. Exactly, yes.

17 A. I was looking on Walgreens online
18 looking for positions. I was looking for a job,
19 and I had looked at multiple areas and Walgreens
20 was one of them.

21 Q. So, Walgreens was actively looking for
22 individuals in their Pharmaceutical Integrity
23 Department in late 2012, early 2013?

24 A. I just know of the position that I

1 applied for, yes.

2 Q. Right. And the position you applied for
3 was the Pharmaceutical Integrity position, correct?

4 A. Yes.

5 Q. And more specifically, the manager in
6 the Pharmaceutical Integrity position, correct?

7 A. Yes.

8 Q. And you found that job through Walgreens
9 actively looking for individuals to fill its
10 Pharmaceutical Integrity Department, correct?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Yes, I saw it online and I applied.

14 BY MR. MOUGEY:

15 Q. Yes, ma'am. And did you come to
16 understand that the Pharmaceutical Integrity
17 Department was a new department at Walgreens?

18 A. When I had been interviewed, I
19 understood that, yes. Interviewed.

20 Q. How did or did someone at Walgreens
21 explain the scope of the responsibilities of the
22 Pharmaceutical Integrity Department during the
23 interview process?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I don't recall the details of the
3 interview other than I was going to be filling a
4 position as a manager for this department.

5 BY MR. MOUGEY:

6 Q. Did you have an understanding of what
7 the scope of the responsibilities of the
8 Pharmaceutical Integrity Department were when you
9 were applying for the position?

10 A. I believe at the time I had a good
11 understanding of what I was applying for, yes.

12 Q. And at that point in time when you were
13 applying for the managerial role in Pharmaceutical
14 Integrity, what was your understanding of the scope
15 of the responsibilities at Walgreens?

16 A. When I had been interviewed, I don't
17 believe I had a complete understanding until I
18 actually had started in the role.

19 Q. Yes, ma'am. And all I asked was,
20 whether you had a complete or whether it was
21 detailed, what I asked was what was your
22 understanding of the role in the scope of the
23 responsibilities of the Pharmaceutical Integrity
24 Department when you were applying for that

1 position?

2 A. My understanding was that as a manager,
3 I would be leading a team that would manage our
4 controlled substance ordering process.

5 Q. Now, let's go back to page 2, and walk
6 me through a little more granular detail in your
7 roles at Walgreens. Let's start with clinical
8 operations pharmacy manager.

9 Now, there is a three-year gap between
10 when I see your PharmD in 1999 and beginning at
11 Walgreens in 2002. What did you do in between
12 those -- that time that you graduated and your
13 first job at Walgreens?

14 A. I was a technician, and then I was a
15 pharmacist at Walgreens.

16 Q. At Walgreens prior to this? So, you
17 actually started at Walgreens directly out of
18 school?

19 A. Correct.

20 Q. So, from -- you have been at Walgreens
21 since 1999 but -- I'm sorry -- not 2002, but 1999?

22 A. Correct. So, I was a technician in
23 school and then I became a pharmacist at Walgreens.

24 Q. Can you describe to me the first several

1 years of experience up till 2005, just generally,
2 what the scope of your responsibilities were?

3 A. Sure. It was managing our drug file and
4 drug database to make sure that the -- basically
5 the NDCs were loaded correctly and managing our
6 clinical programs at the PBM to ensure that the
7 drugs on each of the clinical programs was accurate
8 and was processing correctly in our -- in our
9 system.

10 Q. You mentioned ensuring that the NDCs
11 were loaded correctly. What is the NDC?

12 A. So, the identifier of the actual
13 medication or drug, we used a vendor that provided
14 a file and that was part of my team's
15 responsibility, to ensure the file was loaded
16 correctly.

17 Q. So, the NDC code would actually explain
18 the type of the drug, the strength and the size of
19 the delivery, correct?

20 A. Correct.

21 Q. Any experience up until 2005 with
22 controlled substance ordering process?

23 A. No.

24 Q. Any experience with ensuring that

1 suspicious orders were reported to the DEA up until
2 2005?

3 A. No.

4 Q. Any experience regarding monitoring for
5 suspicious orders up until 2005?

6 A. No.

7 Q. Any experience interacting with the DEA
8 about what industry standards were reporting
9 suspicious orders to the DEA?

10 A. No.

11 Q. Any experience performing due diligence
12 on orders that were flagged as suspicious before
13 they were shipped?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. No.

17 BY MR. MOUGEY:

18 Q. Any experience performing due diligence
19 on any suspicious orders up until 2005?

20 A. No.

21 Q. Are the answers to those questions that
22 I just asked, that series of questions, the same up
23 until the point when you began with Pharmaceutical
24 Integrity in January of 2013?

1 MS. SWIFT: Object to the form. Which
2 questions?

3 BY THE WITNESS:

4 A. So, for the questions related to I have
5 not had any experience that you had just identified
6 prior to 2013, I had not -- no experience.

7 BY MR. MOUGEY:

8 Q. No experience regarding identifying
9 suspicious orders up until January 2013?

10 A. No, I did not.

11 Q. You had no experience performing due
12 diligence on orders that were deemed suspicious up
13 until January of 2013?

14 A. No.

15 Q. You had no experience dealing or
16 interacting with the DEA on orders that were deemed
17 suspicious?

18 A. No.

19 Q. You had no experience reviewing orders
20 at Walgreens or any other pharmacy to identify
21 suspicious orders?

22 A. No, not prior to 2013.

23 Q. And so in 2013, January of 2013, when
24 you accepted the position with Walgreens as a

1 manager in Pharmaceutical Integrity, that was your
2 first time that you were responsible for
3 identifying suspicious orders entered by the
4 pharmacy to determine whether or not they should be
5 shipped?

6 MS. SWIFT: Object to the form of the
7 question.

8 BY THE WITNESS:

9 A. Yes. That was when I started in my
10 position in 2013, part of my job was to identify
11 suspicious orders in our stores.

12 BY MR. MOUGEY:

13 Q. So, let's go up to the summary portion
14 of your CV. Okay. Let's walk through that.

15 Starts off with "Health and wellness
16 professional with broad experience across
17 healthcare management spectrum including extensive
18 PBM experience, community practice pharmacy,
19 specialty pharmacy, and long-term care pharmacy."

20 Did I read that accurately?

21 A. Yes.

22 Q. And what you mean by that sentence,
23 then, is that you have broad experience with your
24 pharmaceutical background as a pharmacist, a

1 technician, and a clinician in that space, correct?

2 A. Yes.

3 Q. You're not referring to any experience
4 you had in the field of diversion?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I did not, no.

8 BY MR. MOUGEY:

9 Q. All right. When I say "diversion," you
10 understand what I mean, correct?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Can you -- can you explain what you mean
14 by diversion?

15 BY MR. MOUGEY:

16 Q. Why don't you explain to me what you
17 understand, based on your broad experience across
18 healthcare management spectrum, what you understand
19 diversion to mean?

20 A. So, I understand diversion to mean
21 different things depending on what we're talking
22 about. I understand diversion to mean if a person
23 that shouldn't have access to a medication or has
24 access to it illegally is basically selling it or

1 diverting it, that's my understanding of diversion.

2 And I also understand diversion in terms
3 of if, for example, the medication -- a medication
4 that's not prescribed to a certain patient has
5 gotten into another person's hands illegally.

6 And I also understand diversion to mean,
7 in our stores, for example, in a pharmacy, if there
8 was an employee diverting the medication or
9 stealing the medication and taking it for their own
10 use.

11 MR. MOUGEY: I will hand you what we will mark
12 as Daugherty 2.

13 (WHEREUPON, a certain document was
14 marked as Walgreens-Daugherty
15 Deposition Exhibit No. 2: US DOJ,
16 July 2006 Follow-Up Review of the
17 Drug Enforcement Administration's
18 Efforts to Control the Diversion of
19 Controlled Pharmaceuticals; P1.1088
20 - P1.1088.95.)

21 BY MR. MOUGEY:

22 Q. Let's just start on the front page of
23 this document. In the upper left-hand corner there
24 is a seal, and it references the U.S. Department of

1 Justice. You're familiar with the U.S. Department
2 of Justice, correct?

3 A. Yes.

4 Q. And as part of the U.S. Department of
5 Justice, do you see below that Office of the
6 Inspector General, correct?

7 A. Yes.

8 Q. Often referred to as the OIG. You're
9 familiar with the Office of the Inspector General,
10 correct?

11 A. Yes.

12 Q. And below that, Evaluation and
13 Inspection Division, correct?

14 A. Yes.

15 Q. And the title of this document is
16 "Follow-up Review of the Drug Enforcement
17 Administration's Efforts to Control the Diversion
18 of Controlled Pharmaceuticals."

19 Do you see the title?

20 A. Yes.

21 Q. And it's July 2006, correct?

22 A. Correct.

23 Q. All right. Now, have you ever seen this
24 document before that you can recall?

1 MS. SWIFT: Take your time to look at it if
2 you need to.

3 BY THE WITNESS:

4 A. I don't recall seeing this document.

5 BY MR. MOUGEY:

6 Q. If you would, please, turn to page 4 of
7 this document and you'll see in the left-hand
8 corner "Impact of Diversion."

9 A. On page 4?

10 Q. Yes, ma'am.

11 MS. SWIFT: Do you mean iv or is it like a
12 number 4?

13 MR. MOUGEY: Number 4.

14 BY MR. MOUGEY:

15 Q. Page 4 and it's titled "Impact of
16 Diversion." Do you see the entry?

17 A. Yes.

18 Q. Okay. And just to explain as well, I
19 should have started here. On the screen in front
20 of you is an electronic version of that document,
21 and we'll try to highlight where we are in that
22 document. So that might help a couple times. If
23 you refer to that or see that on the screen, that's
24 what that is. Okay?

1 A. Okay.

2 Q. It's the same document you have in front
3 of you or it's supposed to be.

4 So you see the title "Impact of
5 Diversion," correct?

6 A. Yes.

7 Q. That paragraph starts off with "The DEA
8 Administrator noted the consequences of non-medical
9 pharmaceutical use in a 2004 cable to DEA employees
10 stating that the diversion and abuse of legal
11 controlled substances poses a significant threat to
12 the health and safety of Americans."

13 Did I read that right?

14 A. Yes.

15 Q. Do you agree with that -- with that
16 statement from the OIG?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. Yes. I would agree.

20 BY MR. MOUGEY:

21 Q. And I continue, "In 2005 Congressional
22 testimony, the DEA's Acting Deputy Assistant
23 Administrator, Office of Diversion control also
24 stated that," and you see the block quote below,

1 correct?

2 A. Yes.

3 Q. And the block quote says, "The
4 non-medical use of prescription drugs has become an
5 increasingly widespread and serious problems" --
6 "problem in the United States. A new generation of
7 high dose, extended release, opiate pain
8 medications have taken the existing threat to a new
9 level. The abuse and diversion statistics are
10 alarming. These powerful drugs provide strong
11 incentives for diversion through new means such as
12 'rogue' Internet pharmacies as well as older
13 methods, like prescriptions for profits. Recent
14 drug use and surveys have" -- "Recent drug use
15 surveys have highlighted the gravity of this
16 problem."

17 Did I read that accurately?

18 A. Yes.

19 Q. And you agree that the diversion from
20 whatever methods had become an increasing problem
21 through the 2000s, correct?

22 MS. SWIFT: Object to the form, calls for
23 speculation.

24 BY THE WITNESS:

1 A. I don't know that to be true.

2 MR. MOUGEY: Kate, this is -- if you have an
3 "Object to the form," and that's it. Okay. We
4 have done this like five times, and every
5 deposition we have asked please just stick with
6 "Object to the form" and that's it.

7 So, the one- or two- or three-word or
8 sentence descriptions afterwards, we've asked
9 repeatedly that that stop. If you please just
10 "Object to the form," that's plenty to preserve
11 whatever objections you have. Thank you.

12 MS. SWIFT: I will make the necessary
13 objections.

14 MR. MOUGEY: Well, if we need to stop and we
15 need to call, because I've asked repeatedly. If
16 you want to stop and we can interrupt Special
17 Master Cohen and we can ask him what the right
18 objections are and whether or not you need to give
19 a description every time, then we can do that. But
20 I really would appreciate if you'd just stick to
21 "Object to the form." Thank you.

22 BY MR. MOUGEY:

23 Q. I want you to hold on to that document
24 because I'm going to come back to it.

1 Now, let's go back to January '13. You
2 accepted the position. You start back up at
3 Walgreens, and you've now been designated the
4 manager of the Pharmaceutical Integrity Department.
5 Okay.

6 Did you have any training at the
7 beginning of your job to give you some background
8 or context about the scope of what your
9 responsibilities were?

10 A. Yes.

11 Q. And would you please just generally
12 describe the scope of that training and how long it
13 lasted.

14 A. So, I was trained on our suspicious
15 order monitoring process with respect to flagged
16 orders in our pharmacies. I was trained with
17 respect to another function of our job was to
18 ensure the DEA 106 forms were submitted by our
19 stores, so we assisted our stores in that process
20 as well.

21 And I was also trained on our Good Faith
22 Dispensing policy, and during the course of that
23 year we also established our Target Good Faith
24 Dispensing policy, which of course I helped put

1 together.

2 And I would say that I am continuously
3 being trained as our policies are changed or
4 updated based on any specific regulations or as
5 things need to be updated.

6 Q. Okay. Let's take those one by one, if
7 we can.

8 The first part was that you were trained
9 with respect to Walgreens' suspicious order
10 monitoring process. Now, I'm focusing on when you
11 started in January of 2013.

12 Do you have a recollection of what that
13 process was at Walgreens when you took the position
14 in January of 2013?

15 A. So, when I started, the process did not
16 include our fully automated CSO KPI tool that we
17 had developed during that year. It was slightly
18 more manual in that we were going back and forth
19 with flagged orders and working with our stores in
20 e-mail versus in the actual tool itself.

21 However, we were identifying any flagged
22 orders and working with stores to basically
23 understand if it was a flagged order and needed to
24 be reported as suspicious.

1 Q. The first part of that description was
2 that you did not have access to the fully automated
3 CSO KPI tool that we had developed during that
4 year. Was there any automation available to you in
5 the beginning of 2013 when you began with
6 Pharmaceutical Integrity?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. At the time the orders that were flagged
10 were automated, and those were pushed to us and
11 then we were to review them and again the
12 communication was e-mail.

13 BY MR. MOUGEY:

14 Q. Okay. And what was your understanding
15 of the automation process to flag orders that came
16 to your department?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I don't recall at the time when I first
20 started.

21 BY MR. MOUGEY:

22 Q. You don't have any understanding of what
23 the automation was?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I understand what our CSO KPI tool was
3 basically developed to do as far as identifying
4 flagged orders. We had implemented that shortly
5 thereafter, and so I was there for a very short
6 time when we had this process.

7 BY MR. MOUGEY:

8 Q. Do you have any understanding what the
9 criteria was when you started for flagging
10 suspicious orders?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. I may have then. I honestly don't
14 recall now.

15 BY MR. MOUGEY:

16 Q. You mentioned the 106 form, the DEA 106
17 form, your training initially. That has to do with
18 theft of suspicious -- of controlled substances,
19 correct?

20 A. Yes.

21 Q. And reporting those thefts to the DEA,
22 correct?

23 A. Yes.

24 Q. And you also mentioned GFD, which is

1 Good Faith Dispensing, correct?

2 A. Yes.

3 Q. And GFD, or Good Faith Dispensing, is
4 different than flagging orders, whether they be
5 orders of interest or suspicious orders, for
6 further due diligence, correct?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. Our Good Faith Dispensing policy is a
10 different policy, yes.

11 BY MR. MOUGEY:

12 Q. Yes, ma'am. And it fulfills different
13 statutory obligations, the Good Faith Dispensing
14 policies and the flagging of suspicious orders,
15 correct?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. I can't speculate.

19 BY MR. MOUGEY:

20 Q. I'm not asking you to speculate. I'm
21 asking based on your broad experience across
22 healthcare management, do you have an understanding
23 of whether or not Walgreens GFD, Good Faith
24 Dispensing, and whatever system it had in place

1 when you started identifying suspicious orders,
2 fulfilled different obligations?

3 MS. SWIFT: Same objection.

4 BY THE WITNESS:

5 A. Can you repeat that. Sorry.

6 BY MR. MOUGEY:

7 Q. Do you have an understanding of whether
8 Good Faith Dispensing policies at Walgreen
9 fulfilled different statutory obligations than --
10 do you have an understanding of whether Good Faith
11 Dispensing policies at Walgreens fulfilled
12 different statutory obligations than Walgreens'
13 system to flag suspicious orders?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't know.

17 BY MR. MOUGEY:

18 Q. Let's go back to your summary in your CV
19 on LinkedIn. The second sentence says, "Developer
20 of proven audit and compliance model and strategies
21 for decreasing pharmacy costs for organizations and
22 payers while driving long-term effects in creating
23 a quality pharmacy network."

24 Do you see that?

1 A. Yes.

2 Q. Does that sentence refer to any part of
3 your background in diversion?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. No.

7 BY MR. MOUGEY:

8 Q. The next sentence says, "Decade of
9 experience managing teams of healthcare
10 professionals including pharmacists and certified
11 pharmacy technicians in the innovation and
12 successful execution of advanced pharmacy audit and
13 pharmacy compliance programs."

14 Did I read that right?

15 A. Yes.

16 Q. Does that sentence reference any of your
17 experience with diversion as you previously defined
18 it?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. No.

22 BY MR. MOUGEY:

23 Q. "Particular" -- reading the next
24 sentence.

1 "Particular experience in management of
2 pharmacy network processes, Medicare Part D, and
3 Fraud, Waste and Abuse programs, long-term care
4 pharmacy, formulary and prior authorization, and
5 specialty pharmacy."

6 Does that sentence cover any of your
7 background or experience in diversion as you
8 previously defined it?

9 A. In that time before 2013, my experience
10 was not, no.

11 Q. Was nothing?

12 MS. SWIFT: Object to the form.

13 BY MR. MOUGEY:

14 Q. Was nothing regarding diversion,
15 correct?

16 A. It was -- it was -- I had no experience
17 in my previous positions prior to '13 in diversion.

18 Q. The last sentence, "Dedicated to
19 monitoring future professionals as demonstrated by
20 ten years of experience managing, teaching and
21 mentoring healthcare practitioners."

22 Correct?

23 A. Yes.

24 Q. So, in your ten years of experience

1 managing, teaching and mentoring healthcare
2 practitioners, you're familiar with what a sound
3 training regimen would be, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. Related to my positions at the time,
7 yes.

8 BY MR. MOUGEY:

9 Q. Yes, of course. And, so, when you began
10 your training at Walgreens, do you believe that you
11 had the opportunity to be fully trained on the
12 issues and the responsibilities of your new job?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. Can you repeat the question?

16 BY MR. MOUGEY:

17 Q. Yes, ma'am. When you began in 2013, as
18 you started your new role, do you believe you were
19 adequately trained to fulfill your obligations in
20 the -- in your role as manager of Pharmaceutical
21 Integrity at Walgreens?

22 A. Yes, and as I said before, I've been
23 trained ongoing as things change.

24 Q. Yes, ma'am. And you feel like the

1 training that you initially had in the beginning of
2 January 2013 and your ongoing training was
3 sufficient for you to fulfill your obligations as
4 manager in Pharmaceutical Integrity Department,
5 correct?

6 A. Yes.

7 Q. Now, Pharmaceutical Integrity Department
8 was a relatively new department when you began in
9 January 2013, correct?

10 A. Yes.

11 Q. Are you familiar with the acronym at
12 Walgreens MPD?

13 A. No.

14 Q. No. All right. And you would agree
15 with me that, at any corporation, when one
16 department is training another department, it's
17 important that that training be thorough and
18 complete so the mission of your department is
19 completely communicated, correct?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. I think it's important for me to
23 understand what my role is in my job, yes.

24 BY MR. MOUGEY:

1 Q. And it's important for others to
2 understand what your role is in your job and what
3 your scope of responsibility is, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. Can you explain what you mean by
7 "others"?

8 BY MR. MOUGEY:

9 Q. Others within Walgreen.

10 MS. SWIFT: Same objection.

11 BY THE WITNESS:

12 A. I think it's important for me to be
13 trained, and I think it's important for others to
14 know what my role is if I interact with those
15 people.

16 BY MR. MOUGEY:

17 Q. And you understand who -- you know who
18 Tasha Polster is, correct?

19 A. Yes, she is my boss.

20 Q. She is your direct report, correct?

21 A. Yes.

22 Q. And she is the director or the person in
23 charge, at least in the beginning of 2013, of
24 Pharmaceutical Integrity when you started, correct?

1 A. Yes, she was the director.

2 Q. I will hand you what I'll mark as
3 Daugherty 3.

4 (WHEREUPON, a certain document was
5 marked as Walgreens-Daugherty
6 Deposition Exhibit No. 3: 3/21/13
7 e-mail string; WAGMDL00303029 -
8 00303031.)

9 BY MR. MOUGEY:

10 Q. If you'd start at the top of this page,
11 this is an e-mail from Ms. Polster dated 3/21/2013.
12 You see where you were copied on that e-mail,
13 correct?

14 A. Yes.

15 Q. Let's go below. Do you know who
16 Sherrise Trotz is?

17 A. Yes.

18 Q. And who is Sherrise Trotz?

19 A. At the time she was one of our pharmacy
20 operations directors.

21 Q. Yes, ma'am. She was the executive
22 director of pharmacy operations at Walgreens,
23 correct?

24 A. Yes.

1 Q. And the initial e-mail dated Monday,
2 March 18 says, "All, we are requesting your
3 participation in onboarding our last two hired MPDs
4 on your areas of expertise. A formal announcement
5 about the MPDs will be distributed later this
6 week."

7 Do you have any understanding of what
8 MPDs are in this context?

9 A. Honestly, I don't know.

10 Q. Okay. And you see in the e-mail where
11 it says, "Subject: New MPD corporate orientation."
12 Correct?

13 A. Yes.

14 Q. So, it looks like new employees are
15 being trained or oriented into different
16 departments at Walgreens, correct?

17 MS. SWIFT: Objection; lacks foundation.

18 BY THE WITNESS:

19 A. My understanding is from this e-mail is
20 that she's asking for additional information on our
21 department, just a higher level description.

22 BY MR. MOUGEY:

23 Q. You can see where you are referencing
24 the "Please be prepared to provide the following,"

1 and she says, "A high level explanation of your
2 area."

3 Correct?

4 A. Yes.

5 Q. And then the second is an
6 "Organizational chart," correct?

7 A. Yes.

8 Q. Third bullet is "Your goals and
9 objectives and how they align to the divisional and
10 corporate strategies."

11 Correct?

12 A. Yes.

13 Q. And the fourth is "A paper copy of the
14 presentation." Correct?

15 A. Yes.

16 Q. Are you familiar with what the term
17 "onboarding" means?

18 A. My understanding of onboarding is making
19 sure that we're providing the right training to new
20 employees.

21 Q. You're getting new people up to speed,
22 correct?

23 A. Yes.

24 Q. And this is Sherrise Trotz reaching out

1 to different departments saying, "Hey, we need to
2 get the new people up to speed," right?

3 A. I can speculate that that's what she's
4 doing, yeah.

5 Q. What's your understanding of what she's
6 saying? She is saying, "We are trying to get new
7 people up to speed." You are included in this
8 e-mail, correct?

9 A. Yes.

10 Q. And she is asking for the folks on this
11 e-mail to get the new people up to speed. Isn't
12 that what your understanding is?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. My understanding is that she's just
16 asking for a description of our department and an
17 org chart.

18 BY MR. MOUGEY:

19 Q. And the purpose of her asking for the
20 organization and the description of the charts is
21 to onboard new people that are starting at
22 Walgreens, correct?

23 A. To provide them additional information
24 on what our department does and our org chart, yes.

1 Q. Yes, ma'am. And Ms. Polster responds,
2 "Please find the one-pager. I will reach out the
3 new MPDs of the week of April 8 to schedule a call
4 with them."

5 Correct?

6 A. Correct.

7 Q. And the attachment is entitled
8 "Pharmaceutical Integrity Overview One Pager.doc,"
9 correct?

10 A. Yeah. Yes.

11 Q. And you were copied on this e-mail,
12 correct?

13 A. Yes, if I was copied on the attachment.
14 It looks like I was.

15 Q. Yes, ma'am. And others in your new
16 department, Pharmaceutical Integrity, were also
17 copied, correct?

18 A. Yes, Chris Dymon, Eric Stahmann and
19 Edward Bratton.

20 Q. And those were all folks that held the
21 same level of the organizational chart in
22 Pharmaceutical Integrity as you, correct?

23 A. Yes.

24 Q. So, as of this point in time,

1 Ms. Polster, Mr. Dymon, yourself, Eric Stahmann and
2 Edward Bratton were the top two levels of the
3 organizational chart in Pharmaceutical Integrity,
4 correct?

5 A. Yes, we all held the time title and we
6 all reported directly to Tasha Polster.

7 Q. And if you turn to Bates number, and the
8 Bates number's in the bottom right-hand corner,
9 it's the attachment, it's -- the last two digits
10 are 31, and the title of the document is
11 "Pharmaceutical Integrity," correct?

12 A. Correct.

13 Q. And that's your department, correct?

14 A. Yes.

15 Q. Have you had a chance just to look at
16 this or do you want to take a chance to read the
17 content?

18 A. I'd like to take a minute.

19 Q. Sure.

20 A. Okay.

21 Q. Based on what you just reviewed, are the
22 two paragraphs under "Pharmaceutical Integrity,"
23 are those an accurate description of the
24 responsibilities of your department?

1 A. Yes.

2 Q. Are they a complete description of the
3 responsibilities of your department?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I would say that it's not detailed and
7 specific.

8 BY MR. MOUGEY:

9 Q. Right. But are they the -- are the
10 descriptions in the two paragraphs that Ms. Polster
11 forwarded to Ms. Trotz, are these an accurate
12 description as you understood it in the beginning
13 of 2013 of what the objectives of Walgreens'
14 Pharmaceutical Integrity Department was?

15 A. Yes.

16 Q. And you agree with that first sentence
17 that "Rx," which is prescription or pharmaceutical,
18 correct, that's the name of the department?

19 A. Yeah.

20 Q. That's what that stands for?

21 A. Yes.

22 Q. "Integrity was created to, one, protect
23 and, two, grow Walgreens' controlled substance
24 business while transforming community pharmacy to

1 play a greater role in the opiate narcotic epidemic
2 and protect our business against high risk
3 prescribers."

4 Do you see that?

5 A. Yes.

6 MS. SWIFT: Object to the form.

7 BY MR. MOUGEY:

8 Q. Did I read that correctly?

9 A. Yes.

10 Q. Was the two primary goals as Ms. Polster
11 indicated in these paragraphs, one, to protect and,
12 two, to grow Walgreens' controlled substance
13 business?

14 MS. SWIFT: Objection; mischaracterizes the
15 document.

16 BY THE WITNESS:

17 A. So, my understanding when I started in
18 this position as to the description of our team was
19 to ensure we were monitoring suspicious orders,
20 prescriptions that were flagged and to make sure we
21 were retraining and training our pharmacists on
22 good faith dispensing and our Target Good Faith
23 Dispensing policies.

24 BY MR. MOUGEY:

1 Q. So, if you would, please, just answer my
2 question.

3 Was the two primary goals, as
4 Ms. Polster indicated in these paragraphs, one, to
5 protect and, two, to grow Walgreens' controlled
6 substance business? Is that an accurate statement
7 as Ms. Polster starts these two paragraphs off?

8 MS. SWIFT: Objection; asked and answered.

9 BY THE WITNESS:

10 A. Whose goal was -- are you talking about
11 my goal? I think I already answered that.

12 BY MR. MOUGEY:

13 Q. That sounds a lot like what Ms. Swift
14 just said, asked and answered, and then you
15 respond, "I already answered that." It's kind of
16 funny how that works, isn't it?

17 So, let's go back to the very first
18 page where it says, "In order to onboard," the word
19 you used, train, "our last two hired MPDs on your
20 area of expertise."

21 Do you see the word "expertise"?

22 A. Yes.

23 Q. Pharmaceutical Integrity was the area of
24 expertise on the folks on the top of this e-mail,

1 correct?

2 MS. SWIFT: Object to the form of the
3 question.

4 BY THE WITNESS:

5 A. I'm not really sure I understand your
6 question. Can you repeat it.

7 BY MR. MOUGEY:

8 Q. Your area of expertise along with the
9 Mr. Stahmann, Mr. Dymon, Mr. Bratton and
10 Ms. Polster, the area of expertise of the folks at
11 the top of this e-mail is Pharmaceutical Integrity,
12 correct?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. I was in the Pharmaceutical Integrity
16 Department, yes.

17 BY MR. MOUGEY:

18 Q. Do you not think that people at the top
19 of that e-mail chain --

20 A. Yes.

21 Q. -- are experts in the area of
22 Pharmaceutical Integrity?

23 MS. SWIFT: Object to the form of the
24 question.

1 BY THE WITNESS:

2 A. I think that they were the managers at
3 Rx Integrity and, yes, that was their
4 responsibility, to make sure that we were leading
5 our team and doing what we were supposed to do,
6 which was ensuring our controlled substance orders
7 and reviewing flagged orders and reporting
8 suspicious orders.

9 BY MR. MOUGEY:

10 Q. That's a little different than the
11 question I asked.

12 I said do you believe that the
13 individuals at the top of this e-mail chain,
14 Ms. Polster, Mr. Dymon, yourself, Mr. Stahmann and
15 Mr. Bratton, were -- their areas of expertise was
16 the scope and responsibilities of the
17 Pharmaceutical Integrity Department?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I think that they were the managers
21 leading the team and, yes, I did think that they
22 had knowledge on how to manage the processes that
23 we needed to do to fulfill our job.

24 BY MR. MOUGEY:

1 Q. Was Mr. Stahmann an expert in the area
2 of diversion?

3 MS. SWIFT: Objection; lacks foundation.

4 BY THE WITNESS:

5 A. I don't know.

6 BY MR. MOUGEY:

7 Q. Did you sit shoulder to shoulder with
8 Mr. Stahmann working in Pharmaceutical Integrity to
9 build that department?

10 A. Yes.

11 Q. Did you have daily interactions with
12 Mr. Stahmann?

13 A. Yeah.

14 Q. And you did for a long period of time,
15 correct?

16 A. Yes.

17 Q. You sat around probably conference room
18 tables like this talking about controlled substance
19 monitoring, correct?

20 A. Yes.

21 Q. You talked about identifying suspicious
22 orders, correct?

23 A. Yes.

24 Q. You talked about performing due

1 diligence on orders that were identified as
2 suspicious, correct?

3 A. Yes.

4 Q. You had months and months and months,
5 years of interactions with Mr. Stahmann on those
6 topics, correct?

7 A. Yes.

8 Q. Was he an expert in the areas that we
9 just walked through?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. Are you talking about now or are you
13 talking about back in January 2013?

14 BY MR. MOUGEY:

15 Q. Any point in time. Do you consider him
16 to be a subject matter expert on diversion?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. Today I do consider him to be
20 knowledgeable on diversion, yes.

21 BY MR. MOUGEY:

22 Q. And that's different than the question I
23 asked you. I didn't ask you whether he was
24 knowledgeable. I asked you do you consider him to

1 be a subject matter expert on the issue of
2 diversion?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. I -- I think that he has a lot of
6 knowledge on diversion, yes.

7 BY MR. MOUGEY:

8 Q. Does that knowledge level about
9 diversion rise to the level of subject matter
10 expertise?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. I would not know how to answer that.
14 I'm not sure what you mean by -- how you would
15 define subject matter expert. I think he has a lot
16 of knowledge in his area.

17 BY MR. MOUGEY:

18 Q. You understand what the words "subject
19 matter" is, right?

20 MS. SWIFT: Let her finish her answer before
21 you ask the next question.

22 BY MR. MOUGEY:

23 Q. You understand what the words "subject
24 matter" is, correct?

1 A. Yes.

2 Q. You understand what the word "expertise"
3 is, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. That would be my opinion that he has a
7 lot of knowledge, yes.

8 BY MR. MOUGEY:

9 Q. And what I'm asking you, in your
10 understanding, does Mr. Stahmann's knowledge about
11 diversion rise to the level of subject matter
12 expertise?

13 MS. SWIFT: Same objections.

14 BY THE WITNESS:

15 A. In my opinion I think he is very
16 knowledgeable --

17 BY MR. MOUGEY:

18 Q. And does that --

19 A. -- in diversion.

20 Q. Does that level of knowledge in
21 diversion rise to the level of subject matter
22 expertise?

23 A. I don't know.

24 MS. SWIFT: Same objection.

1 BY MR. MOUGEY:

2 Q. You don't know?

3 MS. SWIFT: Same objection.

4 BY MR. MOUGEY:

5 Q. What part of the -- what part of my
6 question do you not know? You don't know --

7 MS. SWIFT: She's already told you.

8 BY THE WITNESS:

9 A. I don't know.

10 BY MR. MOUGEY:

11 Q. You don't know what?

12 A. What you just asked me.

13 Q. What part of what I asked you do you not
14 know?

15 A. The entire question.

16 MS. SWIFT: Object to the form.

17 BY MR. MOUGEY:

18 Q. You don't know whether or not
19 Mr. Stahmann is a subject matter expert in the area
20 of diversion?

21 A. I don't know.

22 MS. SWIFT: Object to the form.

23 BY MR. MOUGEY:

24 Q. So, after sitting shoulder to shoulder

1 with him for years now in meetings, discussing
2 diversion, you have no earthly idea of whether or
3 not his knowledge base rises to the level of
4 subject matter -- subject matter expert?

5 MS. SWIFT: Object to the form;
6 mischaracterizes the testimony.

7 BY THE WITNESS:

8 A. I think he has a lot of knowledge in
9 diversion.

10 BY MR. MOUGEY:

11 Q. What's --

12 A. Very knowledgeable.

13 Q. But not to the level of subject matter
14 expertise?

15 MS. SWIFT: Object to the form. She's asked
16 you to define your term and you haven't done it.

17 BY THE WITNESS:

18 A. I don't know what that level means.
19 What level --

20 BY MR. MOUGEY:

21 Q. Sounds a lot like what Ms. Swift said.
22 We can do this all day long.

23 MS. SWIFT: She said she didn't know what you
24 were talking about. I was repeating what she had

1 just said. Define your term.

2 BY MR. MOUGEY:

3 Q. Do you understand what SME is within
4 Walgreens?

5 A. Yes.

6 Q. What does that stand for?

7 A. Someone who is the expert for a
8 particular area or topic.

9 Q. And SME stands -- the acronym stands for
10 subject matter expert, correct?

11 A. Correct.

12 Q. Right. So, you understand what the word
13 "subject matter expert" is, correct?

14 A. Yes.

15 MS. SWIFT: Object to the form.

16 BY MR. MOUGEY:

17 Q. I didn't invent that word, right?

18 A. No.

19 Q. That's a term of art within Walgreens,
20 correct?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. No.

24 BY MR. MOUGEY:

1 Q. Do you believe that Mr. Stahmann, as
2 Walgreens defines SME, is a subject matter expert
3 in the areas of diversion?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I don't know if Walgreens defines Eric
7 Stahmann as a subject matter expert in the area of
8 diversion.

9 BY MR. MOUGEY:

10 Q. You understand I'm not asking --

11 MS. SWIFT: Let her finish her answer.

12 BY MR. MOUGEY:

13 Q. I'm not asking you whether or not you
14 understand what Walgreens --

15 MS. SWIFT: Were you finished with your
16 answer?

17 THE WITNESS: Yeah.

18 BY MR. MOUGEY:

19 Q. I'm not understanding you what -- I'm
20 not asking you what Walgreens defines him as. I'm
21 asking you what you do. You understand that,
22 right?

23 A. You're asking me what I think?

24 Q. Yes, ma'am. That's right.

1 A. In my opinion.

2 Q. That's right. What you believe.

3 A. I don't know what Walgreens defines as a
4 subject matter expert in your question. Do I think
5 that Eric Stahmann has a good knowledge base on
6 diversion, yes.

7 Q. I'm not asking you what Walgreens
8 believes. I'm asking you do you understand
9 Walgreens' definition of SME?

10 A. Yes.

11 Q. And you understand what SME is. What do
12 you understand that SME is?

13 A. Someone who is an expert on a specific
14 topic or area of their job.

15 Q. And you've had years of interacting with
16 Mr. Stahmann on his day-to-day duties, including
17 diversion, correct?

18 A. Yes.

19 Q. Do you, Ms. Daugherty, believe that
20 Mr. Stahmann is an SME, as you understand it, on
21 diversion?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. I have never heard Eric referred to as

1 an SME on the topic of diversion.

2 BY MR. MOUGEY:

3 Q. I'm not asking you if you have ever
4 heard him referred to.

5 Based on your understanding of what SME
6 is and based on your interactions for years with
7 Mr. Stahmann on diversion, do you consider him to
8 be an SME in diversion?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. I don't know that I consider him an
12 expert.

13 BY MR. MOUGEY:

14 Q. Who did you understand was the subject
15 matter expert when you started at Walgreens in
16 early 2013 on diversion?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. Again, I don't think that anyone that I
20 knew that I worked at with Walgreens was a subject
21 matter expert on diversion.

22 I would say that I worked directly with
23 my boss Tasha Polster on any questions that I had
24 as I was learning the role in my job.

1 BY MR. MOUGEY:

2 Q. Do you agree -- let's go back to
3 Daugherty 3.

4 Do you agree, on Bates No. 31, that
5 Rx Integrity was created to protect and grow
6 Walgreens' controlled substance business?

7 MS. SWIFT: Objection.

8 BY MR. MOUGEY:

9 Q. Do you agree with that statement?

10 MS. SWIFT: Same objections raised previously
11 on the same question.

12 BY THE WITNESS:

13 A. I would say that my role when I started
14 in Rx Integrity was to ensure that we were
15 reporting suspicious orders, reviewing flagged
16 orders and ensuring that our DEA 106s were
17 submitted.

18 BY MR. MOUGEY:

19 Q. So, you do not agree with the very first
20 statement, "Rx Integrity was created to protect and
21 grow Walgreens' controlled substance business"?

22 MS. SWIFT: Same objections.

23 BY THE WITNESS:

24 A. I would say that my job was created to

1 ensure that we were managing our suspicious orders,
2 reporting them appropriately, and, again, following
3 our process for DEA 106 and supporting our Good
4 Faith Dispensing policies.

5 BY MR. MOUGEY:

6 Q. Yes, ma'am. And none of the description
7 you just gave me included that Rx Integrity was
8 created to protect and grow Walgreens' controlled
9 substance business, correct?

10 MS. SWIFT: Same objections.

11 BY THE WITNESS:

12 A. I did not write that. I don't know.

13 BY MR. MOUGEY:

14 Q. I understand you didn't write it.

15 Did you respond to this e-mail or at any
16 point in time to Ms. Polster that "I'm confused. I
17 thought I was here to alert DEA of 106 issues. I'm
18 here to implement GFD and I'm here to identify
19 suspicious orders. I didn't know I was here to
20 protect and grow Walgreens' controlled substance
21 business"? Did you ever say anything along those
22 lines?

23 A. No.

24 Q. Did this confuse you when you started?

1 You had only been here a couple months at this
2 point in time. When you get a statement from your
3 boss saying that Rx Integrity was created to
4 protect and grow Walgreens' controlled substance
5 business, did that confuse you at all?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. No, not that I recall.

9 BY MR. MOUGEY:

10 Q. If you go to the bottom -- let's do it
11 this way. If you go to the bottom of that page.

12 The Rx Integrity managers, and it lists
13 you, Mr. Dymon, Mr. Bratton and Mr. Stahmann,
14 correct?

15 A. Yes.

16 Q. And you have what appears to be regional
17 divisions, correct?

18 A. Yes.

19 Q. And you were the Midwestern Division,
20 correct?

21 A. At the time, yes.

22 Q. How long did that last for?

23 A. I don't remember. I can only speculate
24 maybe two years.

1 Q. And then where did you go after the
2 Midwestern Division?

3 A. Eastern Division.

4 Q. And did you have specific
5 responsibilities outside of geographic areas as a
6 manager of Pharmaceutical Integrity?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. Can you elaborate on that, explain what
10 you mean.

11 BY MR. MOUGEY:

12 Q. Well, did you and Mr. Bratton and
13 Mr. Stahmann and Mr. Dymon split up specific tasks
14 or roles outside of the geographic
15 responsibilities?

16 A. At what time?

17 Q. In -- at the time this e-mail was
18 drafted in early 2013.

19 A. Outside of the geographic divisions?

20 Q. Yes, ma'am.

21 A. Not that I recall, no.

22 Q. Not that you -- okay.

23 Was there a time after the creation of
24 this e-mail, so later 2013, '14, that you did have

1 specific roles or responsibilities outside of the
2 geographic areas?

3 A. In 2013 and 2014?

4 Q. Right.

5 A. No. Not that I recall.

6 Q. So, it wasn't like Mr. Bratton was the
7 computer guy, right?

8 A. Not that I recall.

9 MS. SWIFT: Object to the form.

10 BY MR. MOUGEY:

11 Q. It wasn't that Mr. Stahmann was the kind
12 of detective, loss prevention guy, right?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. No.

16 BY MR. MOUGEY:

17 Q. Your roles, as you understood them,
18 within Pharmaceutical Integrity was -- were
19 geographic in scope, correct?

20 A. Correct.

21 MS. SWIFT: Object to the form.

22 BY MR. MOUGEY:

23 Q. All right. Now, let's go to the second
24 paragraph of this document. "The team works with

1 various departments, including legal, government
2 affairs, logistics, loss prevention, IT and others
3 to ensure company-wide awareness and adhere federal
4 state and local laws and regulations."

5 Correct?

6 A. Yes.

7 Q. And that was -- "the team" reference
8 that Ms. Polster disseminated to you all is the
9 Pharmaceutical Integrity team, correct?

10 A. Yes.

11 Q. So, it was important for others within
12 Walgreens to understand what the objectives of your
13 department was, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I think I said earlier it's -- it was
17 important in terms of the people within Walgreens
18 that we were working with, yes.

19 BY MR. MOUGEY:

20 Q. And important because every other team
21 needs to have an understanding of what the scope of
22 responsibilities of the other groups within the
23 organization are, correct?

24 MS. SWIFT: Object to the form of the

1 question.

2 BY THE WITNESS:

3 A. For example, yes, I think government
4 affairs should be aware of Rx Integrity as we
5 worked with them as well as loss prevention.

6 BY MR. MOUGEY:

7 Q. All right. So, let's go back up to the
8 top of the -- of this description where it says,
9 "Rx Integrity is responsible for managing, creating
10 and maintaining controlled substance dispensing,
11 monitoring and reporting programs including the
12 Good Faith Dispensing policy and the National Good
13 Faith Dispensing program."

14 Did I get that right?

15 A. Yes.

16 Q. All right. Can you explain to me who at
17 Walgreens was responsible for creating the policy
18 discussed in that sentence?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. I don't know as my understanding is the
22 policy was created before I started in that
23 position.

24 BY MR. MOUGEY:

1 Q. So, when you started in the position at
2 Pharmaceutical Integrity in early 2013, how long
3 did the training process last?

4 A. I think that it was ongoing. Again, I
5 would say that I am still being trained today and
6 learning new things today --

7 Q. Are you familiar --

8 A. -- as regulations change.

9 Q. I'm sorry. I didn't mean to interrupt
10 you.

11 Are you familiar with the term
12 "war room"?

13 A. I'm familiar with the term, yes.

14 Q. Was it used when you first started at
15 Walgreens, a war room?

16 A. In 2013?

17 Q. Yes, ma'am.

18 A. Not that I recall.

19 Q. Not that I recall.

20 Do you recall that there was a
21 conference room that was set up where documents and
22 policies and procedures within Walgreens had been
23 kind of gathered for review?

24 A. No. My understanding of war room is not

1 the same.

2 Q. All right. Do you -- that's why I
3 didn't use the word "war room" that time. I asked
4 did you understand that there was a room or a
5 conference room that -- at Walgreens that the
6 members of the Pharmaceutical Integrity Department
7 gathered policies, procedures and documents for
8 review to assist with the creation of the policies
9 for identifying suspicious orders?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. No.

13 BY MR. MOUGEY:

14 Q. No. Do you believe that there was a
15 robust system for identifying suspicious orders at
16 Walgreens when you started in January '13?

17 MS. SWIFT: Object to the form, foundation.

18 BY THE WITNESS:

19 A. I think that the suspicious order
20 monitoring program and the CSO KPI tool that we
21 developed when I started was an effective tool,
22 yes.

23 BY MR. MOUGEY:

24 Q. But the CSO KPI tool was -- that was the

1 automated tool you referenced earlier, correct?

2 A. Correct.

3 MS. SWIFT: Object to the form.

4 BY MR. MOUGEY:

5 Q. That came after you started, correct?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. No, it was in place. There was just
9 some manual components. Like I said, as opposed to
10 responding in the tool, we were using e-mail
11 alongside it.

12 BY MR. MOUGEY:

13 Q. So, sitting here today with what you
14 know, is Ms. Polster's e-mail disseminating the
15 description of Pharmaceutical Integrity in front of
16 you on Daugherty 3, is that an accurate description
17 of your department at that point in time?

18 MS. SWIFT: Same objection as before.

19 BY THE WITNESS:

20 A. I don't think it's complete, no.

21 BY MR. MOUGEY:

22 Q. So, the answer is that is not an
23 accurate description of your department?

24 MS. SWIFT: Same objection.

1 BY THE WITNESS:

2 A. I don't think it's complete.

3 BY MR. MOUGEY:

4 Q. So the answer is yes, I do not think
5 it's an accurate description, correct?

6 MS. SWIFT: Same objection.

7 BY THE WITNESS:

8 A. The answer is I don't think it's
9 complete.

10 BY MR. MOUGEY:

11 Q. So, the answer -- I'm entitled to a yes
12 or no on my question. So, when I ask you a
13 question that's capable of a yes or no, I'd
14 appreciate it if you'd give that to me. Okay? If
15 you want --

16 MS. SWIFT: She is going to give you the
17 answer to the question that she believes is the
18 truthful answer.

19 BY MR. MOUGEY:

20 Q. If you want to explain your answer,
21 that's your prerogative. But I would appreciate if
22 you could give me a yes or no.

23 So, do you agree with me that the
24 two-paragraph description that Ms. Polster

1 disseminated was inaccurate and not complete?

2 MS. SWIFT: Same objections.

3 BY THE WITNESS:

4 A. I don't think that the description in
5 front of me is complete.

6 BY MR. MOUGEY:

7 Q. And, therefore, it is inaccurate,
8 correct?

9 MS. SWIFT: Same objections.

10 BY THE WITNESS:

11 A. I don't know that it's inaccurate. I
12 don't think it's complete.

13 BY MR. MOUGEY:

14 Q. Do you not think it's important that
15 descriptions and training within Walgreens for
16 folks that are onboarding be complete?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. This description was intended for
20 onboarding new employees, and it was not intended
21 for my understanding of my role. I understood my
22 role in my position. I understand it today.

23 BY MR. MOUGEY:

24 Q. Did you prepare for your deposition

1 today?

2 A. Yes.

3 Q. And you met with lawyers today, correct,
4 for today?

5 A. Yes.

6 Q. In preparation for. Correct? Sorry.

7 A. Yes.

8 Q. And those lawyers included outside
9 counsel?

10 A. Yes.

11 Q. And did it include in-house counsel at
12 Walgreens as well?

13 A. For the preparation of the deposition?

14 Q. Yes, ma'am.

15 A. No.

16 Q. Were there anyone there for the
17 preparation of your deposition that was not with
18 outside counsel?

19 MS. SWIFT: Object to the form of the
20 question.

21 BY THE WITNESS:

22 A. No.

23 BY MR. MOUGEY:

24 Q. When I say "with," I mean employed by

1 the outside counsel. It was all lawyers that were
2 there during your preparation?

3 A. To my knowledge, yes.

4 Q. How many times have you met with outside
5 counsel to prepare for your deposition?

6 A. Three times.

7 Q. And how many hours each time did you
8 prepare?

9 A. I would say three, three and a half
10 hours.

11 Q. Each time?

12 A. Each time.

13 Q. Were you given documents to review?

14 MS. SWIFT: It's a yes-or-no question.

15 BY THE WITNESS:

16 A. Yes.

17 BY MR. MOUGEY:

18 Q. And were you given documents to take
19 home to review?

20 A. No.

21 Q. How many documents were you given to
22 review in order to prepare for your testimony in
23 total from all your meetings?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. More than three, less than ten maybe.

3 BY MR. MOUGEY:

4 Q. Did you have --

5 A. I don't know exactly.

6 Q. Sorry. Did you have any telephone
7 conferences outside of those in-person meetings to
8 prepare for your testimony today?

9 A. No.

10 Q. So, the total meetings were the three
11 that you mentioned earlier?

12 A. Correct.

13 Q. And which lawyers did you meet with to
14 prepare for your testimony today?

15 A. So, I met with Kate Swift. I met with
16 Hamilton. I don't know his last name. I met with
17 Pete Wilson. And I met with -- I can't think of
18 her name. I can't think of the other lady's name
19 right now at this time.

20 Q. Did part of your training when you began
21 at Walgreens include an update on the status of
22 opiate prescriptions around the country?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. I think that I have seen updates,
2 whether it be from like online or in the news or
3 updates in general of what was going on around the
4 country, yes.

5 BY MR. MOUGEY:

6 Q. And when you reference news sources
7 online or TV reports, was that post you starting
8 with Pharmaceutical Integrity or before or both?

9 A. Related to?

10 Q. Opiate crisis.

11 A. Before and after, yes.

12 Q. And, so, my initial question was was
13 part of your training a review of the opiate crisis
14 in the U.S. prior to 2013?

15 MS. SWIFT: Objection. That's a new question.
16 It's not what you asked previously.

17 BY THE WITNESS:

18 A. Training. Yes. I mean, I had
19 definitely had seen maps or information around what
20 was going on in the country related to controlled
21 substance abuse.

22 BY MR. MOUGEY:

23 Q. Were you advised that in 2013 as part of
24 your training that the opiate crisis was relatively

1 new?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. No.

5 BY MR. MOUGEY:

6 Q. No. Would that be inaccurate?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. My understanding of the opioid crisis
10 was before I started my position.

11 BY MR. MOUGEY:

12 Q. But the question I asked was: If the
13 opiate crisis was described as new in 2013, that
14 would be inaccurate, correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. If someone described it as new, I -- I
18 would have to say that it wasn't necessarily new
19 other than it was coming to light more in the news
20 and in the press.

21 BY MR. MOUGEY:

22 Q. So, when you reference the news and in
23 the press articles that you had seen, that was
24 relatively recent before you had started your 2013

1 job at Walgreens?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. At the time there was a lot of news and
5 information around the opioid crisis, yes.

6 BY MR. MOUGEY:

7 Q. And do you have an understanding of how
8 far back the national press coverage of the opiate
9 crisis went prior to 2013?

10 MS. SWIFT: Object to the form, foundation.

11 BY THE WITNESS:

12 A. No, I don't.

13 BY MR. MOUGEY:

14 Q. Do you have any understanding of whether
15 or not there were any Congressional investigations
16 regarding the opiate crisis prior to 2013?

17 A. No.

18 Q. And do you have any understanding of
19 whether or not there were any subcommittees,
20 Congressional subcommittees, that were formed to
21 investigate the opiate crisis prior to 2013?

22 A. Not that I can recall.

23 Q. So, you don't recall any of that being
24 part of your training when you started in 2013?

1 A. I don't recall being trained on -- that
2 there were Congressional subcommittees --

3 Q. Or what the --

4 A. -- prior to 2013, no.

5 Q. You don't recall being trained about
6 what the scope of the problem was regarding opiate
7 crisis or how far back that problem existed?

8 MS. SWIFT: Object to the form of the
9 question.

10 BY THE WITNESS:

11 A. In my training, I was definitely made
12 aware of the prescription drug abuse going on
13 around the country. Like I said, I saw some maps.
14 I've seen, you know, information around various
15 parts of the country where there was news related
16 to issues around prescription drug abuse and opioid
17 abuse.

18 BY MR. MOUGEY:

19 Q. Did you have an understanding as part of
20 your training from Walgreens about how far back the
21 opiate abuse existed, timewise?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. At the time I honestly don't remember.

1 MS. SWIFT: We have been going about an hour.
2 Are you getting close to a breaking point?

3 MR. MOUGEY: I'd like to finish this next
4 document if I could, but yes is the answer to your
5 question.

6 I hand you what I have marked as
7 Daugherty 4.

8 (WHEREUPON, a certain document was
9 marked as Walgreens-Daugherty
10 Deposition Exhibit No. 4: 1/10/13
11 e-mail with attachment;
12 WAGMDL00049752 - 00049773.)

13 BY MR. MOUGEY:

14 Q. The first page of this document is an
15 e-mail from Mr. Dymon who is your equivalent in
16 Pharmaceutical Integrity, correct?

17 A. Correct.

18 Q. To yourself and other members of the
19 Pharmaceutical Integrity team, correct?

20 A. Yes.

21 Q. Including the individual Tasha Polster
22 who is in charge of Pharmaceutical Integrity,
23 correct?

24 A. The e-mail is to Tasha. I can't recall

1 who Lauren O'Sullivan is.

2 Q. But Ms. Polster was running
3 Pharmaceutical Integrity as of January of 2013,
4 correct?

5 A. Yes.

6 Q. The subject of this e-mails says, "DEA
7 Update Presentation for Market Leadership."

8 Do you see that?

9 A. Yes.

10 Q. And this is while you were being trained
11 at Walgreens in early 2013 regarding the opiate
12 crisis, correct?

13 A. Yes.

14 Q. And the attachment as referenced says
15 "DEA Market Leadership Scrubbed Version
16 January 2013."

17 Do you see that?

18 A. Where do you see that?

19 Q. The attachment.

20 A. Oh, yeah, I see that, yes.

21 Q. Do you have an understanding of what
22 "scrubbed version" meant?

23 A. My understanding of scrubbed version is
24 usually when it's picked for spelling and errors

1 and grammatical.

2 Q. And it had been reviewed and the content
3 in the presentation was accurate, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. Accurate according to the person that
7 reviewed it I would assume.

8 BY MR. MOUGEY:

9 Q. And Mr. Dymon was part of the same
10 training you were when Pharmaceutical Integrity
11 started, correct, Ms. Daugherty?

12 A. Yes, I think this might have been the
13 first couple days that Mr. Dymon started in the
14 position, yes.

15 Q. Yes, ma'am. And the first week that you
16 had been there, correct?

17 A. Absolutely.

18 Q. You started after the holidays --

19 A. Right.

20 Q. -- in January of '13, correct?

21 A. That's correct.

22 Q. You had been there about a week,
23 correct?

24 A. Yes.

1 Q. And this was part of the material being
2 disseminated for your review in 2013 when you
3 started, correct?

4 A. Yes.

5 Q. And if you would turn to the first
6 page of the PowerPoint presentation that's attached
7 on Bates No. 53, "DEA Update, Market Leadership
8 Meeting."

9 Do you see that?

10 A. What page?

11 Q. Bates No. 53 in the bottom right-hand
12 corner.

13 A. 53?

14 MS. SWIFT: He is talking about the Bates
15 number, which is the long number.

16 THE WITNESS: Oh, got it. Okay.

17 BY THE WITNESS:

18 A. Yes.

19 BY MR. MOUGEY:

20 Q. "DEA Update, Market Leadership Meeting";
21 and it has Tasha Polster's name, the executive
22 director or the director of Pharmaceutical
23 Integrity, correct?

24 A. Yes.

1 Q. And if you turn to the second page of
2 the PowerPoint, that's titled "The New Hot Topic."

3 Do you see that?

4 A. Yes.

5 Q. You recognize that guy's face there,
6 that's Dr. Sanjay Gupta from CNN, right?

7 A. Yes.

8 Q. And you see in the title of this
9 document "The New Hot Document" -- I mean, "The New
10 Hot Topic," correct?

11 A. Yes.

12 Q. And you see that there is talking points
13 below the PowerPoint slide, right?

14 A. Yes.

15 Q. And it says, "The new hot topic in the
16 news is the epidemic America has: Prescription
17 pain drug abuse."

18 Correct?

19 A. Yes.

20 Q. Is that an accurate statement that
21 the -- that the opiate epidemic is a new hot topic?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. I don't know at the time if that was a

1 new hot topic or not. I don't know.

2 BY MR. MOUGEY:

3 Q. You testified previously that you had
4 seen reports about the opiate epidemic in the press
5 and online. Was it a new topic across the American
6 press in January of 2013?

7 MS. SWIFT: Same objections.

8 BY THE WITNESS:

9 A. I don't know if that was a new hot
10 topic. I'm not an expert in the news. I don't
11 know.

12 BY MR. MOUGEY:

13 Q. I'm not asking you to be an expert in
14 the news. You're part of now you've been in
15 Pharmaceutical Integrity Department from 2013 and
16 today is November of 2018.

17 How long had the opiate epidemic been
18 raging by the time January 2013 hit?

19 MS. SWIFT: Same objections.

20 BY THE WITNESS:

21 A. I don't know.

22 BY MR. MOUGEY:

23 Q. You have no idea?

24 MS. SWIFT: Same objections.

1 BY THE WITNESS:

2 A. I don't know.

3 BY MR. MOUGEY:

4 Q. So, as part of your training, you don't
5 recall any review of how long the opiate crisis had
6 existed?

7 MS. SWIFT: Same objections.

8 BY THE WITNESS:

9 A. Not that I recall.

10 MS. SWIFT: Let me get my objections out.

11 THE WITNESS: Sorry.

12 MS. SWIFT: It's okay.

13 BY MR. MOUGEY:

14 Q. So, sitting here today, do you have an
15 understanding of whether or not the opiate crisis
16 in January '13 was new?

17 MS. SWIFT: Same objections.

18 BY THE WITNESS:

19 A. No, I do not. I don't recall.

20 BY MR. MOUGEY:

21 Q. I'm asking you. I said sitting here
22 today. Sitting here today, do you have an
23 understanding of whether the opiate crisis in
24 January '13 was a new topic in the media?

1 MS. SWIFT: Same objections.

2 BY THE WITNESS:

3 A. I don't know.

4 MS. SWIFT: Peter, if you're going to spend a
5 lot of time on this document, I ask that we take a
6 break. We have been going for about an hour 10
7 minutes.

8 MR. MOUGEY: I said when I got through it,
9 I'll be done.

10 MS. SWIFT: I'm sorry?

11 MR. MOUGEY: When I get finished with this
12 document, we'll be done.

13 BY MR. MOUGEY:

14 Q. On Bates No. 53.

15 MS. SWIFT: I'll ask again if it's another 10,
16 15 minutes, just so you know.

17 BY MR. MOUGEY:

18 Q. On Bates No. 53. Do you see the Bates
19 numbers in the bottom corner?

20 A. Yes.

21 Q. The long number. You see the last two
22 digits are 53?

23 A. Yes.

24 Q. All right. I'm on the timeline 2012.

1 MS. SWIFT: You're on Bates 53?

2 MR. MOUGEY: Yeah.

3 MS. SWIFT: Bates 53 is the title slide.

4 MR. MOUGEY: It is.

5 BY MR. MOUGEY:

6 Q. And it's -- there is --

7 MS. SWIFT: While you guys figure this out, we
8 are going to take a five-, ten-minute break.

9 MR. MOUGEY: We are not taking a break in the
10 middle of a document. We have been going an hour
11 and 15 minutes. We're not taking a break. I said
12 when we finished this document. It's a few pages.
13 I'd like to finish.

14 MS. SWIFT: I'm going to respectfully request
15 a bathroom break.

16 BY MR. MOUGEY:

17 Q. Page 7. Do you see the 7th page?

18 MS. SWIFT: I'm going to note for the record
19 an objection that counsel is refusing to stop the
20 deposition for a bathroom break.

21 MR. MOUGEY: I just said can I get through
22 this document and I'm almost finished. We have
23 taken more time asking for breaks than we are --
24 let me finish this document.

1 BY MR. MOUGEY:

2 Q. Page 7.

3 MS. SWIFT: Well, we wouldn't have been doing
4 that if you grant a request for a break.

5 MR. MOUGEY: This is the MO. We take a break
6 every hour and we run out the clock.

7 BY MR. MOUGEY:

8 Q. Page 7. Do you see the talking point on
9 page 7 of this document titled "Timeline 2012"?

10 A. Yes.

11 Q. "The key to note is that this isn't just
12 a Florida problem."

13 Do you see that in the PowerPoint from
14 Ms. -- that has Ms. Polster's name on it?

15 A. Yes.

16 Q. And that's referring to the opiate
17 epidemic, correct?

18 MS. SWIFT: Object to the form, foundation.

19 BY THE WITNESS:

20 A. I can only speculate.

21 BY MR. MOUGEY:

22 Q. Sounds like what Ms. Swift just said.

23 So, based on your understanding of your
24 review of this PowerPoint, do you agree that the

1 opiate epidemic isn't just a Florida problem?

2 MS. SWIFT: Objection. Do you want her to
3 look at the whole document or are you asking about
4 just that sentence?

5 BY MR. MOUGEY:

6 Q. Do whatever you need to do to answer the
7 question.

8 A. I can only assume what that means. I
9 don't know. I can only speculate. I didn't write
10 it.

11 Q. I didn't ask you if you write it.

12 Based on your six, seven years now
13 experience in Pharmaceutical Integrity, do you
14 agree that the opiate epidemic isn't just a Florida
15 problem?

16 MS. SWIFT: Same objections; lacks foundation.

17 BY THE WITNESS:

18 A. Today I agree that there is a
19 prescription drug abuse problem across the country,
20 yes.

21 BY MR. MOUGEY:

22 Q. But sitting there in January of 2013,
23 you don't recall having an understanding of whether
24 the opiate epidemic was just a Florida problem?

1 MS. SWIFT: Same objections.

2 BY THE WITNESS:

3 A. I don't recall in January 2013.

4 BY MR. MOUGEY:

5 Q. Your job included identifying suspicious
6 orders around the country when you began in
7 January 2013, correct?

8 A. Yes, and primarily the Midwest.

9 Q. Wouldn't it be important to know where
10 there were hot spots or problems in the opiate
11 epidemic in performing your responsibilities?

12 MS. SWIFT: Object to the form of the
13 question.

14 BY THE WITNESS:

15 A. I think over the course of my training
16 in January 2013, like I said, I was aware of areas
17 that were alerted in the news or in the press or
18 maybe had seen maps online that alerted of areas
19 where there was maybe more prescription drug abuse,
20 yes.

21 BY MR. MOUGEY:

22 Q. Based on the knowledge you brought to
23 the table in January 2013 and your understanding
24 based on your experience in the pharmaceutical

1 industry, do you agree that the opiate epidemic
2 wasn't just a Florida problem as of January of
3 2013?

4 MS. SWIFT: Same objections; lacks foundation.

5 BY THE WITNESS:

6 A. Today I agree that it's not just a
7 Florida issue.

8 BY MR. MOUGEY:

9 Q. What I'm asking you is when you started
10 in January of 2013.

11 MS. SWIFT: Same objections.

12 BY THE WITNESS:

13 A. I don't recall what I knew back in
14 January of 2013, whether it was just a Florida
15 problem or not.

16 BY MR. MOUGEY:

17 Q. Do you have any understanding of when
18 you had this maybe epiphany or this enlightenment
19 that there was -- the opiate epidemic wasn't just a
20 Florida problem?

21 MS. SWIFT: Same objections.

22 BY THE WITNESS:

23 A. Again, I would say it was when I had
24 seen other areas of the country being in the news

1 or in the press or online and then had seen that
2 there are other areas of the country where there
3 may be issues with prescription drug abuse, yes.

4 Q. But that was after you started at
5 Walgreens?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. It was -- it was after the first day I
9 started with Walgreens, yes.

10 BY MR. MOUGEY:

11 Q. So, coming to the table at Walgreens in
12 2013, you did not have an understanding of whether
13 or not the opiate epidemic, where the hot spots
14 were around the country?

15 MS. SWIFT: Object to the form of the
16 question.

17 BY THE WITNESS:

18 A. Prior to 2013, no.

19 MR. MOUGEY: Let's go ahead and take
20 Ms. Swift's break.

21 MS. SWIFT: Thank you.

22 MR. MOUGEY: You're welcome.

23 THE VIDEOGRAPHER: We're going off the record
24 at 10:22.

1 (WHEREUPON, a recess was had
2 from 10:22 to 10:35 a.m.)

3 THE VIDEOGRAPHER: We're back on the record at
4 10:35.

5 MR. MOUGEY: Thank you.

6 BY MR. MOUGEY:

7 Q. Let's stay with the same document,
8 Ms. Daugherty. If you would please go to page 6
9 titled "Timeline of Events," and the first entry is
10 "Pre-August 2010." Are you there?

11 A. Yes.

12 Q. Okay. Next to the "Pre-August 2010"
13 indicates there had been a "steady increase in
14 Florida pill mills."

15 Do you see that?

16 A. Yes.

17 Q. And "prescribers dispensing
18 medications," correct?

19 A. Yes.

20 Q. And you can flip to the previous pages.
21 Do you see any indication of a description of the
22 events leading up to the opiate crisis prior to
23 2010?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. What previous pages are you referring
3 to?

4 BY MR. MOUGEY:

5 Q. Any of the previous five pages of
6 this -- of this PowerPoint presentation that went
7 out with Ms. Polster's name on it.

8 Do you see any entries specifically
9 describing the timeline of events leading up to
10 August of 2010?

11 MS. SWIFT: Same objection.

12 BY MR. MOUGEY:

13 Q. It's an easy question. Do you see
14 anything else in the timeline? Unless you want me
15 to go through it page by page with you.

16 MS. SWIFT: Same objection.

17 BY THE WITNESS:

18 A. I see on page 4 a graph that shows the
19 leading cause of prescription drugs.

20 BY MR. MOUGEY:

21 Q. Yes. That that had surpassed motor
22 vehicles in 2011, correct?

23 A. That's what it looks like.

24 Q. Leading cause of death, prescription

1 drugs, correct?

2 A. Based on this graph, yes.

3 Q. Yes, ma'am. And that was surpassed,
4 it -- it looks like prescription drugs surpassed
5 motor vehicles sometime close to 2010, correct?

6 A. That's what it looks like based on this
7 graph.

8 Q. And the talking points below says, "This
9 particular stat came out of California, but there
10 were multiple examples across the country where the
11 leading cause of accidental death is prescription
12 pain medications (opioid use)."

13 Correct?

14 A. That's what it says, yes.

15 Q. Yes, ma'am. You're not sure whether
16 that's accurate or not?

17 A. I don't know --

18 Q. You don't know?

19 A. -- it to be true.

20 Q. You don't know then or you don't know
21 now or both?

22 A. I don't know then and I don't know now.

23 Q. You don't know whether or not
24 prescription opiates now are the leading cause of

1 death in specific age groups in the U.S.?

2 A. I do know that prescription overdose
3 deaths are or have exceeded motor vehicle accidents
4 based on what I've seen in various charts and
5 graphs online, yes.

6 Q. And when you say "online," you mean
7 outside of Walgreens?

8 A. Correct.

9 Q. Let's go back to page 6. On this
10 timeline of events that starts with a description
11 of "Pre-August 2010: Steady increase in Florida
12 pill mills." Right?

13 A. That's what it says.

14 Q. And then it continues describing some of
15 the changes of events like October of 2010 where
16 the Florida legislation restricted prescription
17 dispensing to only 72 hours. Do you see that?

18 A. Yes.

19 Q. Does that give any indication of whether
20 or not there was a dramatic problem at least in the
21 State of Florida prior to 2010?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. I do know that Florida changed their

1 legislation to not allow prescribers to dispense
2 medications and only prescribe out of their clinics
3 at some point in time around this time.

4 BY MR. MOUGEY:

5 Q. Yes, ma'am. The question I asked was
6 does that give you any indication, the change by
7 the Florida legislature, of whether there was a
8 dramatic problem at least in the State of Florida
9 prior to 2010?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I don't know if there was a dramatic
13 problem. I would understand that they are making
14 rules as to restricting the supply of pain
15 medications based on what it's says here, but I'm
16 not familiar with that.

17 BY MR. MOUGEY:

18 Q. Yes, ma'am. So, you don't have any
19 understanding of whether there was a problem at all
20 in the State of Florida that led the Florida
21 legislature to change the prescription parameters?

22 A. My understanding is they changed the
23 parameters of prescribers dispensing pain
24 medications as opposed to just writing and

1 dispensing, which they were able to do prior, and

2 I --

3 Q. Not only -- not only did they change --

4 MS. SWIFT: Were you done with your answer?

5 THE WITNESS: Yes, yes.

6 BY MR. MOUGEY:

7 Q. Not only did you change them -- did
8 they -- I'm sorry.

9 Not only did the Florida Legislature
10 change the dispensing or prescription writing
11 parameters, but they were restricted, correct?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. I don't know if they were restricted.
15 I'm not familiar with this particular restriction
16 that you're reading.

17 BY MR. MOUGEY:

18 Q. In July 2011, "Florida law amended to
19 prohibit practitioners from dispensing C-II and
20 C-III except in very limited instances."

21 Correct?

22 A. That's what it says, yes.

23 Q. And C-II and III are controlled
24 substance level II and level III, correct?

1 A. Yes.

2 Q. And those are highly addictive opiates
3 with some medical use, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I would say that controlled substance
7 IIs are highly -- higher -- have a higher addiction
8 potential than controlled III, yes.

9 BY MR. MOUGEY:

10 Q. April 2012, "Administrative Inspection
11 Warrants were served on six stores and the Jupiter
12 DC."

13 Do you see that?

14 Next page, page 7.

15 A. Yes.

16 Q. Now, Jupiter DC. What's DC stand for?

17 A. Distribution center.

18 Q. That's Walgreens distribution center,
19 correct?

20 A. Yes.

21 Q. And that's one of Walgreens' Schedule II
22 distribution centers, correct?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. I don't -- I don't recall at the time if
2 that was one of Walgreens' Schedule II distribution
3 centers.

4 BY MR. MOUGEY:

5 Q. Do you have -- do you recall during your
6 training of anyone at Walgreens describing to you
7 the parameters of the inspection warrants on the
8 six stores in the Jupiter distribution center?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. I don't recall.

12 BY MR. MOUGEY:

13 Q. Do you recall, even sitting here today,
14 from the time you started back at Walgreens in
15 January '13 until today, the scope of the DEA
16 investigation into the six Florida stores and the
17 Jupiter distribution center?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I don't know the scope of the
21 investigation.

22 BY MR. MOUGEY:

23 Q. Do you have any understanding from
24 starting at Walgreens until today what the scope of

1 the problems were with the six Florida retail
2 pharmacies?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. I have some understanding of the six
6 stores, yes.

7 BY MR. MOUGEY:

8 Q. What was your understanding of what the
9 problems were in the six Walgreens stores that
10 received Administrative Inspection Warrants?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. My understanding was that they dispensed
14 high volume of oxycodone.

15 BY MR. MOUGEY:

16 Q. And oxycodone is a Schedule II opiate,
17 correct?

18 A. Yes.

19 Q. And one of the most highly addictive
20 opiates, correct?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. It is -- it is an addictive opioid
24 medication, yes.

1 BY MR. MOUGEY:

2 Q. And one of the most highly abused opiate
3 medications, correct?

4 A. I don't know that to be true.

5 Q. You don't know -- you don't have an
6 understanding of what opiate prescription were some
7 of the most highly abused in Florida or even across
8 the country?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. I think there were other medications as
12 well that were -- had a potential for addiction,
13 yes.

14 BY MR. MOUGEY:

15 Q. And so the answer is yes, you have an
16 understanding. And what was your understanding of
17 what some of the most highly abused Schedule II and
18 Schedule III opiate prescriptions were?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. My understanding of highly abused
22 medications are any of the opioid medications in
23 the controlled substance II classification.

24 BY MR. MOUGEY:

1 Q. Do you believe that hydrocodone before
2 it was reclassified as Schedule II was one of the
3 more frequently abused opiate prescriptions?

4 MS. SWIFT: Object to the form, foundation.

5 BY THE WITNESS:

6 A. That I don't know.

7 BY MR. MOUGEY:

8 Q. I'm confused. I mean, you start in
9 January of 2013. Overdose deaths for prescriptions
10 exceed motor vehicles. You've been brought on to
11 run -- manager in a new department. And that new
12 department's job was to identify suspicious orders,
13 correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. Yes.

17 BY MR. MOUGEY:

18 Q. And sitting here today, you're not sure
19 whether or not hydrocodone was one of the more
20 abused prescription opiates prior to becoming
21 reclassified as Schedule II?

22 A. I don't know.

23 Q. You don't know?

24 A. No.

1 Q. Wouldn't it be important for you to know
2 what the most highly abused prescription opiates
3 were in your job identifying suspicious orders?

4 A. Today?

5 Q. Any point in time. From January 2013
6 that opiate overdose deaths had now surpassed car
7 accidents as the leading cause of death.

8 Wouldn't it be important for you to know
9 in your job identifying suspicious orders what the
10 most abused opiate prescription medications were?

11 MS. SWIFT: Object to the extent it
12 mischaracterizes the prior testimony.

13 BY THE WITNESS:

14 A. I think that my job was to identify
15 suspicious orders. And, yes, I do know that
16 controlled substance IIs are more addictive, for
17 example, than controlled IIIs and IVs.

18 I believe that in my job as identifying
19 suspicious orders and flagged orders, I believe
20 that my job is to work with our stores to
21 understand if that order should be considered
22 suspicious regardless of which C-II it is.

23 BY MR. MOUGEY:

24 Q. Let me make sure we're straight here.

1 So, when I asked you wouldn't it be important for
2 you in your job identifying suspicious orders what
3 the most abused opiate prescription medications
4 were, is your answer no, that they were all
5 equally?

6 A. I don't know if I would have liked to
7 know at the time, if that's what you're asking me.

8 Q. Sitting here today, do you think it's
9 important for you to know what opiate prescriptions
10 were highly problematic -- I'm sorry.

11 Sitting here today, wouldn't it be
12 important for you to know which opiate medications,
13 Schedule II or Schedule III, were the most abused
14 in fulfilling your job responsibilities at
15 Walgreens?

16 A. I believe that I think that it's
17 important to know which controlled II or III opioid
18 medications are most abused today, yes, in doing my
19 job.

20 Q. At what point in time did you become
21 aware that it was important to know which
22 controlled II or III opiate medications are most
23 abused?

24 MS. SWIFT: Object to form.

1 BY MR. MOUGEY:

2 Q. When did you come to that conclusion
3 that you ought to know that?

4 MS. SWIFT: Object to the form of the
5 question.

6 BY THE WITNESS:

7 A. I think that my understanding of what's
8 most abused, when we started in Rx Integrity, was
9 to put together our Target Good Faith Dispensing
10 process; and we identified three medications in
11 that process to make sure that our pharmacists were
12 alerted and following the procedure or the
13 checklist in the Target Good Faith Dispensing
14 checklists.

15 BY MR. MOUGEY:

16 Q. And what were those three that were --
17 that fell under the rubric of the GFD that were
18 most abused?

19 A. I would say the drugs that we selected,
20 and, again, I don't know if it was based on that
21 they were the most abused, were oxycodone,
22 Methadone and hydromorphone.

23 Q. And do you recall when hydro -- strike
24 that.

1 Let's go back to this timeline, May to
2 June of 2012, a "Relaunch of Good Faith Dispensing
3 Policy."

4 Do you know what is being described here
5 as relaunches?

6 MS. SWIFT: Objection; foundation.

7 BY THE WITNESS:

8 A. Since I wasn't there, I don't know
9 exactly what that means, no.

10 BY MR. MOUGEY:

11 Q. But in your job training in early '13,
12 did anyone tell you that GFD had just been
13 relaunched in May, June of 2012?

14 MS. SWIFT: Same objection.

15 BY THE WITNESS:

16 A. Not that I recall.

17 BY MR. MOUGEY:

18 Q. "November 2012, Order to show cause
19 issued to three of the original Florida
20 pharmacies."

21 Do you see that?

22 A. Yes.

23 Q. Let's go back to May and June of 2012.
24 Were you aware that eight stores voluntarily

1 removed all C-II products, Xanax and Soma?

2 A. No.

3 Q. Sitting here today, did you -- that's
4 the first time you've heard that?

5 A. Can you repeat the exact question.

6 Q. Yes, ma'am. Sitting here today, were
7 you aware that eight Walgreen stores had
8 voluntarily removed all C-II products and Xanax and
9 Soma?

10 A. That I don't recall.

11 Q. And then where we started, looking at
12 this document, "The key to note is that this isn't
13 just a Florida problem."

14 Do you have any understanding of what
15 that note is describing?

16 MS. SWIFT: Same objections as before.

17 BY THE WITNESS:

18 A. No, I really don't know exactly what
19 that means.

20 BY MR. MOUGEY:

21 Q. I hand you what I'm marking as Daugherty
22 5.

23 (WHEREUPON, a certain document was
24 marked as Walgreens-Daugherty

1 Deposition Exhibit No. 5: 21 USCA
2 Section 801.)

3 BY MR. MOUGEY:

4 Q. Let's go back to your training
5 January 2013 when you came on board at
6 Pharmaceutical Integrity.

7 All of the managers were new within the
8 last few months into Pharmaceutical Integrity when
9 you arrived, correct?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. When I arrived, I was the first manager.

13 BY MR. MOUGEY:

14 Q. So, obviously, then the people -- and
15 you were new, obviously, to Pharmaceutical
16 Integrity, correct?

17 A. Yes.

18 Q. And the three that followed you,
19 Mr. Dymon, Mr. -- Mr. Bratton and Mr. Stahmann,
20 were all new as well, correct, after you?

21 A. Yes.

22 Q. And Ms. Polster was relatively new in
23 her job role, correct?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. That was my understanding when I
3 started.

4 BY MR. MOUGEY:

5 Q. Did part of your training include a
6 description of what the applicable U.S. Code and
7 Code of Federal Regulations required for suspicious
8 order monitoring?

9 MS. SWIFT: I'm going to object to the extent
10 the question calls for privileged information.
11 Instruct you not to answer if it calls for
12 information you learned from counsel.

13 BY THE WITNESS:

14 A. I think my understanding was we worked
15 with our attorneys to interpret that regulation,
16 yes.

17 BY MR. MOUGEY:

18 Q. So, who was in charge at Walgreens of
19 training you regarding compliance issues related to
20 the U.S. Code? Would attorneys come in and train?

21 MS. SWIFT: Same objection. I instruct you
22 not to disclose any information you learned from
23 counsel.

24 BY MR. MOUGEY:

1 Q. I'm simply asking did they train. I
2 don't want you to divulge any what Ms. Swift
3 believes is confidential or privileged.

4 But did attorneys train your group on
5 what was required under the applicable U.S. Code
6 regarding suspicious order monitoring?

7 MS. SWIFT: I'm also going to instruct you
8 that to the extent you learned information that
9 came from counsel, whether directly or otherwise,
10 not to divulge it. But you can answer the question
11 yes or no if you understand it.

12 BY THE WITNESS:

13 A. No.

14 BY MR. MOUGEY:

15 Q. So, let me make sure, after the couple
16 paragraphs of objections there, make sure we are on
17 the same page.

18 What I asked was: Did attorneys train
19 your group on what was required under the
20 applicable U.S. Code regarding suspicious order
21 monitoring. Is your answer to that question no?

22 A. No, I was not trained by attorneys.

23 Q. Okay. So, we're not treading on any
24 proprietary ground here about training and attorney

1 input, correct?

2 MS. SWIFT: Object to the form of the
3 question.

4 BY THE WITNESS:

5 A. I don't know what we're -- what you're
6 asking. Can you clarify, please.

7 BY MR. MOUGEY:

8 Q. Were attorneys part of your compliance
9 training in any shape, form or fashion at
10 Walgreens?

11 MS. SWIFT: Object to the form of the
12 question. If you know the answer, you can answer
13 it yes or no.

14 BY THE WITNESS:

15 A. No, I was not trained by attorneys.

16 BY MR. MOUGEY:

17 Q. But what I asked you, were they part of
18 the training in any shape, form or fashion
19 regarding compliance with suspicious order
20 monitoring?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. No.

24 BY MR. MOUGEY:

1 Q. Are you aware of whether or not
2 attorneys prepared the material that was used for
3 training for compliance functions related to
4 suspicious order monitoring?

5 A. No.

6 Q. You're not aware or they weren't?

7 A. I'm not aware.

8 Q. Did you have interactions with
9 attorneys, and, again, I'm not asking you the
10 content, but did you have interactions with
11 attorneys about the implementation of Walgreens
12 program regarding suspicious order monitoring when
13 you started in '13?

14 A. When I started in '13 I did not have
15 that I recall interactions with attorneys in the
16 beginning, no.

17 Q. Did there become a point in time when
18 you did have interactions with lawyers about
19 Walgreens' suspicious order monitoring policies or
20 procedures?

21 A. Honestly, I don't recall. I have had
22 interactions with attorneys over the course of my
23 job in Rx Integrity. Specifically around
24 suspicious order monitoring, there may have been,

1 but I don't know.

2 Q. Now, when you say "attorneys," let me
3 make sure I'm clear here. I'm not talking about
4 just outside counsel. I'm referring to Walgreens'
5 in-house counsel as well.

6 A. Yes.

7 Q. Does that change your answer at all?

8 A. No.

9 Q. That doesn't change your answer to any
10 of the previous questions about attorneys'
11 involvement regarding training and compliance with
12 suspicious order monitoring policies?

13 A. No.

14 Q. Let's start with or continue with
15 Daugherty 5. This is U.S. Code Section 801. You
16 have a copy in front of you. It's "Congressional
17 findings and declarations: controlled substances."

18 Do you see that?

19 A. Yes.

20 Q. And under No. 2, "The illegal
21 importation, manufacture, distribution, and
22 possession and improper use of controlled
23 substances have a substantial and detrimental
24 effect on the health and general welfare of the

1 American people."

2 Did I read that correctly?

3 A. Yes.

4 Q. Do you agree with that provision in the
5 U.S. Code?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. I don't know that to be true. I don't
9 know.

10 MR. MOUGEY: Does the camera angle include
11 Ms. Swift? No. All right.

12 I would like the record to reflect that
13 there is a continued head nodding and head shaking
14 yes and no from Ms. Swift when asking questions,
15 and it has continued over a series of depositions.

16 And I'd ask that opposing counsel please
17 stop yes or no's with shaking of their head when
18 I'm asking questions, which along with the speaking
19 objections clearly indicates what the counsel wants
20 the witness to answer.

21 BY MR. MOUGEY:

22 Q. So, let's go back to 2. Do you agree --
23 let's keep going.

24 If you would, turn the page to the

1 section titled "21 U.S. Code Section 812.
2 Schedule II."

3 Do you see the "Schedule II" section
4 below?

5 A. Yes.

6 Q. Okay. "The drug or other substance has
7 a high potential for abuse."

8 Do you agree with the -- with that
9 provision of the U.S. Code?

10 MS. SWIFT: Same objection.

11 BY THE WITNESS:

12 A. Yes, I agree.

13 BY MR. MOUGEY:

14 Q. Schedule II (B), "The drug or other
15 substance has a currently accepted medical use in
16 treatment in the United States or a currently
17 accepted medical use with severe restrictions."

18 Do you see that?

19 A. Yes.

20 Q. Do you agree with that provision in the
21 U.S. Code?

22 MS. SWIFT: Same objection.

23 BY THE WITNESS:

24 A. I don't know that I agree.

1 BY MR. MOUGEY:

2 Q. Schedule II (C), "Abuse of the drug or
3 other substances may lead to severe psychological
4 or physical dependence."

5 Did I read that right?

6 A. Yes.

7 Q. Do you agree with that provision of the
8 U.S. Code?

9 MS. SWIFT: Same objection.

10 BY THE WITNESS:

11 A. Yes.

12 BY MR. MOUGEY:

13 Q. And you'd agree with me that it was
14 important for you to understand the rubric or the
15 parameters from the U.S. Code so you could fill
16 your function as a manager in Walgreens'
17 Pharmaceutical Integrity Department?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I would agree that I should be familiar
21 with the regulations, yes.

22 BY MR. MOUGEY:

23 Q. And if you would, turn to the second
24 page of this document titled "Section 21 U.S. Code

1 Section 821." It says, "The Attorney General is
2 authorized to promulgate rules and regulations and
3 to charge reasonable fees relating to the
4 registration and control of the manufacture,
5 distribution and dispensing of controlled
6 substances and to listed chemicals."

7 Did I read that correctly?

8 A. Yes.

9 Q. And you would agree with me that
10 Walgreens fills two of the functions listed in
11 U.S. Code Section 821, correct?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. Can you be specific, the functions.

15 BY MR. MOUGEY:

16 Q. Sure. You understand that Walgreens is
17 a distributor, correct?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. Walgreens was a distributor.

21 BY MR. MOUGEY:

22 Q. Yes, ma'am. Walgreens was a distributor
23 until it got out of the business in 2014, correct?

24 MS. SWIFT: Object to the form, foundation.

1 BY THE WITNESS:

2 A. I don't know if it was 2014, but we did
3 get out of the business, yes.

4 BY MR. MOUGEY:

5 Q. You do know that Walgreens got out of
6 the distribution business?

7 A. Yes.

8 Q. So, up and to the point when Walgreens
9 got out of the distribution business, Walgreens was
10 a distributor as referenced in Section 821 of the
11 U.S. Code, correct?

12 MS. SWIFT: Object to the form, foundation.

13 BY THE WITNESS:

14 A. When I started in my position, I knew
15 that Walgreens had distribution centers that were
16 fulfilling controlled substance orders.

17 BY MR. MOUGEY:

18 Q. Do you recall when you started at
19 Walgreens in 2013 how many distribution centers at
20 Walgreens were distributing Schedule II opiates?

21 MS. SWIFT: Object to the form, foundation.

22 BY THE WITNESS:

23 A. Honestly, I don't know exactly how many.

24 BY MR. MOUGEY:

1 Q. You don't know. Walgreens was also a
2 retail pharmacy, correct?

3 A. Yes.

4 Q. And this reference in Section 821 to
5 dispensing, do you have an understanding of what is
6 referenced by the word "dispensing"?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. My understanding of dispensing is
10 filling controlled substances in the pharmacy, yes.

11 BY MR. MOUGEY:

12 Q. Like a pharmacy, right? Dispensing?

13 A. That's my understanding.

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. But, again, I'm not interpreting rules
17 and regulations. I would probably work with our
18 attorneys to interpret that, yeah.

19 BY MR. MOUGEY:

20 Q. I hand you what I've marked as --

21 THE VIDEOGRAPHER: Can we go off the record
22 for one minute?

23 MR. MOUGEY: Sure.

24 THE VIDEOGRAPHER: We are going off the record

1 at 11:00 a.m.

2 (WHEREUPON, a recess was had
3 from 11:00 to 11:02 a.m.)

4 THE VIDEOGRAPHER: We're back on the record at
5 11:02.

6 BY MR. MOUGEY:

7 Q. Before we leave Daugherty 5, if you
8 would please look at the bottom of each one of
9 these sections and there is a date, October 27,
10 1970. You can go back to the very first page.

11 21 U.S.C. Section 801, the provision
12 that references that "controlled substances have a
13 substantial and detrimental effect on the health
14 and general welfare of the American people." And
15 that's dated October 27, 1970, correct?

16 A. Yes.

17 Q. And in your education and role as a
18 pharmacist, you were aware about the substantial
19 and detrimental effect of opiate prescriptions on
20 the American public, correct?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. I was aware that controlled substances
24 as a pharmacist were regulated and that there was

1 specific requirements in writing a prescription for
2 a controlled substance and that pharmacists have to
3 use their corresponding responsibility when
4 deciding to dispense a controlled substance
5 prescription, yes.

6 BY MR. MOUGEY:

7 Q. And did you have an understanding that
8 they were also highly addictive?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Yes. I -- I understand that controlled
12 substances can be addictive.

13 BY MR. MOUGEY:

14 Q. And did you have an understanding that
15 controlled substances have a substantial and
16 detrimental effect on the health and general
17 welfare of the American people if they were abused?

18 A. If a person was abusing a controlled
19 substance, I can say that yes, there may be a
20 detrimental effect to their health.

21 Q. And, so, this wasn't new news that there
22 was a substantial and detrimental effect on the
23 health and general welfare of the American people.
24 In fact, it's referenced in the U.S. Code in 1970

1 as indicated herein, correct?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. I see that it's referenced here, yes.

5 BY MR. MOUGEY:

6 Q. You went to pharmacy school at, is it
7 Mideastern?

8 A. Midwestern.

9 Q. Midwestern and you finished your PharmD
10 in 1999, correct?

11 A. I believe it was 2000, but yes.

12 Q. '99, 2000?

13 A. Yeah.

14 Q. Somewhere. You had spent -- how many
15 years does it take you in undergrad and pharmacy
16 all the way to finish your PharmD, how many years
17 of education?

18 A. How many years did it take me?

19 Q. Yes, ma'am.

20 A. So, roughly three years undergrad and
21 four years pharmacy school.

22 Q. So, approximately seven years of
23 education in the field of pharmacy or pharmacist,
24 rather, you had an understanding that, one,

1 controlled substances were potentially highly
2 addictive, correct?

3 A. Yes.

4 Q. You had an understanding based on your
5 seven years of education that prescription opiates
6 potentially could have a substantial and
7 detrimental effect on the health and general
8 welfare of the American people?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. I would say that I had an understanding
12 that someone who's become addicted to a controlled
13 substance, that it would definitely have a bad
14 effect on their health, yes.

15 BY MR. MOUGEY:

16 Q. And when you were brought into
17 Pharmaceutical Integrity in 2013, you have an
18 understanding that your department's role was to
19 identify potential suspicious orders, correct?

20 A. Yes.

21 Q. In part. And the goal of identifying
22 potential suspicious orders was to minimize or
23 prevent the diversion of prescription opiates into
24 the American public, correct?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. My understanding was that our role was
4 to ensure that any flagged orders were reported as
5 suspicious.

6 Q. And the goal or objective of flagging
7 those orders as suspicious was to try and prevent
8 or minimize the amount of prescription opiates into
9 the American public, correct?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. My understanding was that we were to
13 review flagged orders and report suspicious orders
14 because that was part of the law; and in talking to
15 our attorneys, that's what we were --

16 MS. SWIFT: Object. I'm just going to
17 interpret you and instruct you not to disclose
18 anything that you learned from attorneys.

19 BY MR. MOUGEY:

20 Q. In talking to attorneys, that that
21 helped you understand what the compliance functions
22 were?

23 MS. SWIFT: Same objection.

24 BY THE WITNESS:

1 A. In talking to attorneys, it helped me
2 understand what we were required to do.

3 BY MR. MOUGEY:

4 Q. And I understand that you were required
5 to identify and spot suspicious orders and report
6 them, but what I'm trying to get to is what's your
7 understanding of what the objective. What was the
8 goal of identifying or spotting those suspicious
9 orders and reporting them?

10 MS. SWIFT: Object to the form, foundation.

11 BY THE WITNESS:

12 A. The goal was to follow the law is my
13 understanding.

14 BY MR. MOUGEY:

15 Q. But what was the -- what was the goal or
16 objective of the law? What was -- what were you
17 trying to do in Pharmaceutical Integrity when you
18 started in 2013?

19 MS. SWIFT: Object to the form. To the extent
20 it calls for privileged information, I'll instruct
21 you not to answer. I'm not sure that it does, but
22 if it does, I'll instruct you not to answer.

23 BY THE WITNESS:

24 A. I don't know the goal of the law.

1 BY MR. MOUGEY:

2 Q. What was the goal of the department,
3 just to spot the orders?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. The department was tasked as part of
7 their job to flag orders and then report them as
8 suspicious if they were in fact suspicious.

9 BY MR. MOUGEY:

10 Q. I hand you what will be marked as
11 Daugherty 6.

12 (WHEREUPON, a certain document was
13 marked as Walgreens-Daugherty
14 Deposition Exhibit No. 6:
15 Document, Chapter II - Drug
16 Enforcement Administration,
17 Department of Justice; P-GEN-0064.)

18 BY MR. MOUGEY:

19 Q. Very first page of Daugherty 6 is titled
20 "Chapter II - Drug Enforcement Administration,
21 Department of Justice."

22 Do you see that?

23 A. Yeah. Yes.

24 Q. And I'd like just to direct your

1 attention to a couple of pages in this.

2 MS. SWIFT: Just for the record, because there
3 is no Bates number on -- or is this a Bates number
4 at the top right, Peter, for identification
5 purposes?

6 MR. MOUGEY: I don't believe so. Let me just
7 use the -- let me just use the page numbers if it's
8 okay, because there is not a Bates number. Let's
9 use 29. If you want to read the upper right-hand.

10 MS. SWIFT: Just for identification purposes
11 on the first page it says P-GEN-0064. I don't know
12 if that's "Plaintiff Generic" through -- well,
13 every page appears to have the same identifier.
14 There is no Bates number on the document.

15 MR. MOUGEY: Or we can just refer to it as
16 Daugherty 6.

17 BY MR. MOUGEY:

18 Q. So, Daugherty 6. Section 1301.36. It's
19 on page 29 of this document. And it's Section --
20 it's on the right-hand column. 1301.36.

21 Do you see that where I am?

22 A. Yes.

23 Q. Okay. And that section is entitled
24 "Suspension or revocation of registration;

1 suspension of registration pending final order;
2 extension of registration pending final order."

3 Are we in the same place?

4 A. Yes.

5 Q. If you would go down, please, to
6 Section (e), begins with "The Administrator."
7 Bottom of the right-hand page. Right-hand column,
8 rather.

9 A. Yes.

10 Q. "The Administrator may suspend any
11 registration simultaneously with or at any time
12 subsequent to the serving upon the registrant of an
13 order to show cause why such registration should
14 not be revoked or suspended, in any case where he
15 or she finds that there is an imminent danger to
16 the public health or safety."

17 Do you see that?

18 A. Yes.

19 Q. So, when you began at Walgreens in
20 January '13, did you have an understanding that
21 Walgreens had received any orders to show cause or
22 immediate suspensions from the DEA?

23 MS. SWIFT: Object to the form, foundation.

24 BY THE WITNESS:

1 A. When I began at Walgreens, I did not
2 have any understanding.

3 BY MR. MOUGEY:

4 Q. Let's broaden that up.

5 Did you understand when you began at
6 Walgreens that Walgreens was under investigation by
7 the regulators regarding its dispensing and
8 distribution of controlled substances?

9 MS. SWIFT: Object to the form, vague.

10 BY THE WITNESS:

11 A. I had knowledge when I began at
12 Walgreens that the DEA had gone in and visited
13 select stores in Florida in our pharmacies, yes.

14 BY MR. MOUGEY:

15 Q. And when you say "visited," you mean
16 like had donuts or they were investigating the
17 retail pharmacies where Walgreens dispensed
18 Schedule II and III narcotics?

19 MS. SWIFT: Object to the form. Did you say
20 "had donuts"?

21 MR. MOUGEY: I did.

22 BY MR. MOUGEY:

23 Q. What do you mean by visited?

24 A. My understanding was that they were

1 audits of our pharmacies.

2 Q. They were audits. They were
3 investigating. Do you agree with that?

4 MS. SWIFT: Object to the form, foundation.

5 BY THE WITNESS:

6 A. I don't know if they were investigating,
7 but at the time my understanding was that they were
8 audits.

9 BY MR. MOUGEY:

10 Q. Do you recall in the first half of 2013
11 anyone from Walgreens showing you documents that
12 had been served upon Walgreens by the Department of
13 Justice?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. In 2013?

17 BY MR. MOUGEY:

18 Q. Yes.

19 A. I don't recall.

20 Q. Do you have an understanding in the
21 beginning of 2013 the scope of the investigation
22 into Walgreens?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. No.

2 BY MR. MOUGEY:

3 Q. Did you have an understanding in the
4 beginning of 2013 that the Department of Justice
5 and the DEA were moving to suspend Walgreens'
6 registration because it was in imminent danger to
7 the public's health or safety?

8 MS. SWIFT: Object to the form, assumes facts.

9 BY THE WITNESS:

10 A. No, I did not know.

11 BY MR. MOUGEY:

12 Q. Did you have an understanding of what
13 the scope of the audits was into Walgreens from the
14 DEA?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. My understanding of the scope of the
18 audits or visits from the DEA were to investigate
19 the dispensing of oxycodone, as I mentioned before.

20 BY MR. MOUGEY:

21 Q. Do you have an understanding of whether
22 or not the audits pertained in any way to the
23 distribution of Schedule II or Schedule III
24 narcotics?

1 MS. SWIFT: Object to the form, foundation.

2 BY THE WITNESS:

3 A. Did I understand in 2013? No.

4 BY MR. MOUGEY:

5 Q. Let's continue with the next sentence.

6 It says, "If the Administrator so suspends, he or
7 she shall serve with the order to show cause
8 pursuant to Section 1301.37 an order of immediate
9 suspension which shall contain a statement of his
10 findings regarding the danger to public health or
11 safety."

12 Do you see that?

13 A. Yes.

14 Q. Do you have an understanding of whether
15 or not Walgreens in late 2012, early 2013 had
16 received an order to show cause because there was a
17 finding regarding the danger to public health or
18 safety?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. In 2013, I did not, no.

22 BY MR. MOUGEY:

23 Q. When did you become aware that there was
24 an order to show cause or any regulatory orders

1 from the DEA or the Department of Justice regarding
2 Walgreens' conduct?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. I don't recall.

6 BY MR. MOUGEY:

7 Q. Do you recall if it was in 2013 at all?

8 A. I don't recall.

9 Q. Do you -- would you agree with me that
10 if Walgreens received orders from the Department of
11 Justice or the DEA that there be an immediate
12 suspension that contained a statement regarding the
13 danger to public health or safety, that that is a
14 significant issue at Walgreens?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. Can you repeat that.

18 BY MR. MOUGEY:

19 Q. Would you agree that if Walgreens
20 received an order to show cause requiring immediate
21 suspension that contained statements about findings
22 regarding the danger to public health or safety,
23 that that is a significant issue at Walgreens?

24 MS. SWIFT: Same objection.

1 BY THE WITNESS:

2 A. I don't know. I don't know all -- I
3 don't know all the facts and what the order to show
4 cause entailed. I don't know.

5 BY MR. MOUGEY:

6 Q. I mean, as manager of Pharmaceutical
7 Integrity, aren't you kind of in the fact business?
8 I mean, isn't your job to find out facts regarding
9 suspicious orders?

10 MS. SWIFT: Object to form.

11 BY THE WITNESS:

12 A. My job is to find out facts regarding
13 suspicious orders and identify them and report
14 them, yes.

15 BY MR. MOUGEY:

16 Q. This is now the leading cause of death
17 as of 2013 in the United States when you start,
18 correct?

19 MS. SWIFT: Object to the form, foundation.

20 BY THE WITNESS:

21 A. I don't recall if it was the leading
22 cause of death when I started.

23 BY MR. MOUGEY:

24 Q. And if Walgreens is receiving orders

1 from the regulators that contain findings regarding
2 the danger to public health or safety, wouldn't you
3 expect Walgreens to fully update you on what the
4 problems were in those locations?

5 A. I again became aware of it. I just
6 don't recall when I became aware of it. Early in
7 2013, for example, I was not aware of it.

8 Q. And at any point in time you can't
9 recall in 2013 when anyone from Walgreens came and
10 updated you on the problems with Walgreens
11 distribution centers regarding the danger to public
12 health or safety?

13 MS. SWIFT: Object to the form of the
14 question.

15 BY THE WITNESS:

16 A. I may have been aware of any -- some
17 sort of order to show cause in our DCs in 2013. I
18 just can't recall when it was, in 2013 or 2014. I
19 don't remember.

20 BY MR. MOUGEY:

21 Q. Are you aware that the Jupiter
22 distribution center Schedule II facilities were
23 padlocked by the DEA?

24 MS. SWIFT: Object to the form, assumes facts.

1 BY THE WITNESS:

2 A. No.

3 BY MR. MOUGEY:

4 Q. Were you -- if I were to use the word
5 "cage" in a distribution center, does that make
6 sense to you?

7 A. Yes.

8 Q. Schedule II and Schedule III narcotics
9 along with others are stored in that cage, correct?

10 A. As far as I know, yes.

11 Q. Do you -- are you aware that the DEA put
12 a lock on Walgreens' -- one of Walgreens'
13 distribution centers, locking up their Schedule II
14 and Schedule III narcotics?

15 A. No.

16 Q. No one ever has told you that?

17 A. Not that I recall, no.

18 Q. Wouldn't that be information that would
19 be important for you to know in your job, that one
20 of Walgreens' Schedule II and Schedule III cages
21 had been locked by the DEA shortly before your
22 arrival?

23 MS. SWIFT: Object to the form of the
24 question.

1 BY THE WITNESS:

2 A. When I first started in Rx Integrity, my
3 role was to again identify flagged orders and
4 report suspicious orders according to the law as a
5 variety of other things, reporting 106s, and,
6 again, maintaining our Good Faith Dispensing
7 policy.

8 I don't know if I would have liked to
9 know at the time as it didn't have direct impact on
10 my job and basically training our team back in
11 2013.

12 BY MR. MOUGEY:

13 Q. And you would agree with me that the
14 role of Pharmaceutical Integrity was to identify
15 and spot suspicious orders, correct?

16 A. Yes.

17 Q. Pardon me?

18 A. Yes.

19 Q. Would you agree with me that Walgreens
20 was required to perform due diligence on those
21 suspicious orders?

22 MS. SWIFT: Object to form.

23 BY THE WITNESS:

24 A. Can you be more specific?

1 BY MR. MOUGEY:

2 Q. Do you understand when I use the word
3 "due diligence" what that means?

4 A. Can you explain what you mean by your
5 question.

6 Q. I'm asking you. Do you understand when
7 I use the words "due diligence" what's that mean?

8 A. My understanding is that in
9 Rx Integrity, we were tasked to identify flagged
10 orders and report suspicious orders, yes.

11 Q. I hand you what I'm marking as
12 Exhibit 7, Daugherty Exhibit 7.

13 (WHEREUPON, a certain document was
14 marked as Walgreens-Daugherty
15 Deposition Exhibit No. 7: Masters
16 Pharmaceutical v. DEA, U.S. Court
17 of Appeals, 861 F3d 206.)

18 BY MR. MOUGEY:

19 Q. Very first page of Daugherty Exhibit 7,
20 Masters Pharmaceutical vs. The DEA.

21 Do you see that?

22 A. Yeah, yes.

23 Q. Bear with me one second, Ms. Daugherty,
24 while we catch up with the electronics.

1 I'm going to, while we're looking, I'm
2 going to take your attention to -- the copy is
3 light. So, I'm on -- turn to the fourth page in
4 and it has a number 1 on the right-hand column that
5 starts with "The Controlled Substance Act." Let me
6 know when you're there. Fourth page in.

7 A. Double-sided fourth page?

8 Q. No, just the fourth page.

9 A. Okay.

10 Q. It begins with number 1, "The Controlled
11 Substance Act." Are we on the same page?

12 A. Yes.

13 Q. Let's go through this.

14 In the middle of that paragraph under 1,
15 do you see the sentence that begins with "In
16 evaluating"?

17 A. Yes.

18 Q. Here we go. I'm going to read the
19 sentence in the middle of the paragraph under 1, it
20 says, "In evaluating a distributor's operations,
21 the Administrator considers (1) whether the
22 distributor has maintained 'effective controls
23 against diversions of particular controlled
24 substances into other than legitimate medical,

1 scientific and industrial channels.'"

2 Correct? Do you see that?

3 A. I see it.

4 Q. Did I read that correctly?

5 A. Yes.

6 Q. And then No. 2, "whether the distributor
7 has complied with the applicable state and local
8 laws."

9 Did I read that right?

10 A. Yes.

11 Q. And then No. 3, "whether the distributor
12 has previously been convicted under federal or
13 state laws for a crime related to the sale of
14 controlled substances; (4), the distributor's past
15 experience with controlled substances; and, (5)
16 such other factors as may be relevant to and
17 consistent with the public health and safety."

18 Did I read that right?

19 A. Yes.

20 Q. Let's continue under Section 2 below.

21 "Where, as here, the Administrator
22 considers the first factor - the maintenance of
23 'effective controls' against the diversion of
24 controlled substances."

1 Do you believe when you started in
2 January of '13 that Walgreens maintained effective
3 controls against the diversion of controlled
4 substances?

5 MS. SWIFT: Object to the form, calls for a
6 legal conclusion.

7 BY THE WITNESS:

8 A. I can't interpret that as this is -- I
9 would defer to our legal counsel to advise.

10 BY MR. MOUGEY:

11 Q. But you were hired as a manager in
12 Pharmaceutical Integrity, correct?

13 A. Yes.

14 Q. And you were in charge of, as one of the
15 four managers, implementing Walgreens' system to
16 identify suspicious orders, correct?

17 A. Correct.

18 Q. And do you believe that the system you
19 were charged with implementing was an effective
20 control against the diversion of controlled
21 substances when you started in January of 2013?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. My understanding of my role back in 2013

1 was to review flagged orders, train our team and
2 report suspicious orders.

3 BY MR. MOUGEY:

4 Q. And do you believe that the controls
5 used to identify suspicious orders was effective --

6 MS. SWIFT: Object to the form.

7 BY MR. MOUGEY:

8 Q. -- when you started in 2013?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. I don't know. My understanding of my
12 role was to identify flagged orders.

13 BY MR. MOUGEY:

14 Q. Do you --

15 A. And report suspicious orders.

16 Q. Do you have an understanding in the
17 beginning of 2013 how suspicious orders were
18 flagged?

19 A. When I first started in 2013, I had an
20 understanding that they were flagged based on
21 specific criteria, but I was not familiar with the
22 criteria when I first started.

23 Q. When did you become aware of what the
24 specific criteria was of how suspicious orders were

1 flagged?

2 A. Probably within the first two or three
3 months.

4 Q. First two or three months. So, were you
5 responsible for reviewing those suspicious orders
6 in the first two or three months?

7 A. I was being trained.

8 Q. Were you responsible as manager of the
9 Midwest Division for reviewing suspicious orders
10 those first two or three months?

11 A. I don't remember.

12 Q. You don't recall. You don't recall the
13 first two or three months at your job of whether or
14 not you were getting sent or forwarded suspicious
15 orders?

16 A. Oh, yes, but I was also being trained at
17 the time with another team member.

18 Q. Who else was training alongside with
19 you?

20 A. Steve Mills.

21 Q. And who was training the two of you?

22 A. Steve was training me.

23 Q. Steve was training you. And how long
24 had Steve been in a role at Walgreens of

1 identifying suspicious orders when he started
2 training you?

3 MS. SWIFT: Object to the form, foundation.

4 BY THE WITNESS:

5 A. I don't know. I think he started at the
6 end of 2012.

7 BY MR. MOUGEY:

8 Q. So, a month or two before you?

9 MS. SWIFT: Same objection.

10 BY THE WITNESS:

11 A. I don't know exactly when he started.

12 BY MR. MOUGEY:

13 Q. Walk me through your first few months on
14 the job at Walgreens. Would you get suspicious
15 orders via e-mail?

16 A. Flagged orders via e-mail.

17 Q. Flagged orders. And you're
18 differentiating between a flagged order and a
19 suspicious order?

20 A. Yes.

21 Q. So, the flagged orders you received,
22 what were you charged with doing on those flagged
23 orders?

24 A. I was charged with reviewing them and

1 then working with the store, if needed, to
2 understand if we needed to report that as a
3 suspicious order or if it was a -- it was not
4 considered suspicious.

5 Q. So, when you say "working with the
6 store," what did that mean?

7 A. Calling the store at the time.

8 Q. And who would you speak to when you
9 called the store?

10 A. Typically the pharmacy manager.

11 Q. How many Walgreens were in your
12 geographic region, the Midwest region,
13 approximately in the beginning of 2013?

14 A. Honestly, I don't recall.

15 Q. Do you have any understanding of how
16 many were in your scope of review for suspicious
17 orders?

18 A. I don't remember.

19 Q. Thousands?

20 MS. SWIFT: Object to the form.

21 BY MR. MOUGEY:

22 Q. Would you agree there were thousands?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. I don't remember exactly.

2 BY MR. MOUGEY:

3 Q. Do you recall if there were five or were
4 there 2,000?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I think there were more than 1,000, yes.

8 BY MR. MOUGEY:

9 Q. There were more than 1,000?

10 A. Yes.

11 Q. That were under your review and
12 responsibility to identify suspicious orders?

13 A. Correct.

14 Q. And how would those -- how would the
15 orders that had been flagged come to you via e-mail
16 when you sat down at your desk?

17 A. My understanding was they were --
18 honestly, I don't remember.

19 Q. How often did they come to you?

20 A. All throughout the day.

21 Q. And as they came in, you'd pick up the
22 phone and call the -- the retail store?

23 A. Yes, I could call the retail store.

24 Q. You could, but you didn't --

1 A. Yes.

2 Q. -- necessarily?

3 A. I don't think I did in every case.

4 Q. Did you have any metrics to decide when
5 to call and when not to call in the beginning of
6 2013?

7 A. I don't remember.

8 Q. Do you have any criteria of what you
9 used to determine what was suspicious and what
10 wasn't suspicious based on the information you were
11 given?

12 A. At the time I don't remember.

13 Q. You don't remember. Do you have any
14 idea of the methodology used of to determine what
15 was suspicious and what wasn't suspicious?

16 A. No, I don't remember.

17 Q. Do you recall what you asked the
18 pharmacist in the beginning of 2013 to -- in order
19 to decide whether the order was suspicious or not
20 suspicious?

21 A. No, I don't remember.

22 Q. So, you would just call the pharmacist
23 and you don't have any recollection of what type of
24 information you would discuss with the pharmacist?

1 MS. SWIFT: Object to the form,
2 mischaracterizes the testimony.

3 BY THE WITNESS:

4 A. I don't remember in the beginning when I
5 started and was trained what the process was
6 exactly.

7 BY MR. MOUGEY:

8 Q. I'm not asking you --

9 A. No. I don't remember.

10 Q. Generally, do you recall what type of
11 information you were trying to gather from the
12 pharmacist to determine whether or not an order was
13 suspicious?

14 A. Back in the beginning of 2013, I
15 honestly don't recall in that first month or two.

16 Q. How about the first several months, do
17 you recall what the process was?

18 A. I recall when we implemented the CSO KPI
19 tool fully and it was automated that I would review
20 flagged orders, and at that time there was an
21 explanation that the pharmacists would need to
22 provide as to why they needed it.

23 So, there was a prescription coming in
24 from a patient they felt was legitimate and needed

1 to be filled, then I would not flag that as a
2 suspicious order.

3 Q. Up and to the automated tool that came
4 from Walgreens, what -- what criteria were you
5 discussing with the pharmacy to determine whether
6 or not an order was suspicious?

7 A. So, if I had to speak to a pharmacist,
8 and, again, I don't remember an exact incident, but
9 I would call the pharmacy and I would ask them to
10 provide additional information as to why they
11 needed the additional product, whether it was an
12 extra two bottles to explain to me why they needed
13 the product, whether it was a prescription or a
14 couple prescriptions that they needed to fill for
15 their regular patients. That was the general
16 course of my conversations with the pharmacist.

17 Q. Did you have a checklist or a manual or
18 some policy that you used to go through to
19 determine what was suspicious and what wasn't?

20 A. Not that I recall.

21 Q. You don't recall any criteria that you
22 used, notes, policies, manuals, to determine
23 whether or not an order was suspicious until the
24 automated tool?

1 A. Like a manual?

2 Q. Anything. Smoke signals, anything to
3 determine what was an order was suspicious and what
4 wasn't up until the automated tool?

5 A. I may have used notes in the course of
6 being trained to identify what would be considered
7 a suspicious order, my notes, yes.

8 Q. Did you have a training package that you
9 received?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I received various training and policies
13 to review, yes. But I don't know that it was all
14 in one package.

15 BY MR. MOUGEY:

16 Q. Was it online where you would click and
17 review certain policies or procedures?

18 A. That was part of my training, to receive
19 online policies and procedures, yes.

20 Q. But you didn't receive a packet of
21 information, whether it be online or
22 electronically, that you could refer to for
23 criteria before the automated system to identify
24 suspicious orders?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. Not that I recall.

4 BY MR. MOUGEY:

5 Q. If you had a question regarding whether
6 an order was suspicious or not, who did you go to?

7 A. Probably varied depending on my
8 question.

9 Q. Why don't you give me kind of the scope
10 of people that you would go to with questions and
11 why you would go to them?

12 A. I would probably work with either Steve
13 or one of the other managers, Eric, Steve -- Eric,
14 Ed or Chris.

15 Q. And were they able to respond to your
16 inquiries regarding whether or not an order was
17 suspicious?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I don't recall any specific example. We
21 would work together to determine that.

22 BY MR. MOUGEY:

23 Q. I'm not asking you to remember
24 specifics. I'm very general. I'm not asking you

1 about Susie's prescription in Topeka, Kansas.

2 I'm asking you generally why would you
3 go to separate people and ask them questions? Was
4 it a difference in scope of responsibility?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I would not go to separate people. I
8 think depending on what I was reviewing again, too,
9 we had different areas. So, if I was reviewing an
10 area that happened to be Eric's, I would probably
11 go to Eric and talk to him first, if I had a
12 question.

13 BY MR. MOUGEY:

14 Q. Did you also go to in-house legal
15 department with questions?

16 MS. SWIFT: Object to the form to the extent
17 it calls for privileged information.

18 BY THE WITNESS:

19 A. For what?

20 BY MR. MOUGEY:

21 Q. For any questions regarding the
22 implementation of whether the criteria of whether
23 or not an order was suspicious.

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Not that I recall.

3 MS. SWIFT: Calls for privileged information.

4 You can answer it yes or no.

5 BY THE WITNESS:

6 A. No.

7 BY MR. MOUGEY:

8 Q. You never went to in-house counsel and
9 asked for any interpretation of whether or not an
10 order was suspicious?

11 MS. SWIFT: I'm going to instruct the witness
12 not to answer the question. It calls for
13 privileged information.

14 BY MR. MOUGEY:

15 Q. Did you go to in-house counsel and ask
16 for any interpretations on compliance regarding
17 suspicious orders?

18 MS. SWIFT: Same instruction. Please don't
19 answer the question.

20 MR. MOUGEY: Whether or not she went -- I'm
21 not asking for what was told. I'm not asking for
22 the specifics of what she's asked. All I asked was
23 did you go to in-house counsel for advice or input
24 on whether or not an order was suspicious.

1 MS. SWIFT: It's too close, Peter. I'm
2 instructing her not to answer the question.

3 BY MR. MOUGEY:

4 Q. Did you go to in-house counsel asking
5 for input on compliance issues?

6 MS. SWIFT: You've already covered this
7 earlier in a yes-or-no fashion. I'm going to
8 instruct her not to answer any further questions on
9 this. It's privileged.

10 MR. MOUGEY: You're instructing her not to
11 answer whether or not she went to in-house counsel
12 asking for compliance issues.

13 MS. SWIFT: You've already covered it and she
14 answered yes or no. Let's move on.

15 MR. MOUGEY: You're instructing the witness
16 not to answer my question of whether or not she
17 went to in-house counsel asking for input on
18 compliance issues.

19 MS. SWIFT: You can answer it yes or no.
20 That's it. If you remember.

21 BY THE WITNESS:

22 A. I have to ask what you mean by
23 compliance. I don't know what you mean. Can you
24 give me an example?

1 BY MR. MOUGEY:

2 Q. Go back to your very first -- the very
3 first exhibit, No. 1.

4 Do you see the word "compliance" used
5 repeatedly in your bio?

6 A. Yes.

7 Q. How many times -- it's used several
8 times, correct?

9 A. Yes.

10 Q. "Decade of experience in pharmacy
11 compliance programs."

12 Do you see that in the middle of the
13 page?

14 A. No. Where are you referring to?

15 MS. SWIFT: He is looking at a different
16 document, Patty.

17 BY THE WITNESS:

18 A. I don't know where you're referring to.

19 MS. SWIFT: He's on your LinkedIn. It's a
20 totally different document.

21 BY MR. MOUGEY:

22 Q. Very first.

23 A. Oh, got it.

24 Q. Got it? Right in the middle of the

1 page. It says, "Decade of experience."

2 A. I see that.

3 Q. Follow me? It says, "Decade of
4 experience," very last part of that sentence is
5 "pharmacy compliance programs." Correct?

6 MS. SWIFT: Read the whole sentence if you
7 need to.

8 BY THE WITNESS:

9 A. Yes, I see that.

10 BY MR. MOUGEY:

11 Q. Compliance. You understand what the
12 word "compliance" means, correct?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. Yes.

16 BY MR. MOUGEY:

17 Q. So, when I asked if you went to in-house
18 counsel and asked for input regarding compliance
19 issues, do you recall seeking any input from
20 in-house counsel of Walgreens on compliance
21 functions?

22 MS. SWIFT: Object to the form, vague. You
23 can answer yes or no.

24 BY THE WITNESS:

1 A. So, my role also involved various
2 compliance with state requirements related to 106.
3 So, yes.

4 BY MR. MOUGEY:

5 Q. The only time you went to in-house
6 counsel for input on compliance functions was in
7 regard to 106?

8 MS. SWIFT: Object to the form. Again, it's a
9 yes-or-no question and I'll instruct you not to
10 divulge privileged information you received from
11 attorneys.

12 BY THE WITNESS:

13 A. As far as I recall, I don't know.

14 BY MR. MOUGEY:

15 Q. So, as issues arose with the Walgreens
16 controls against diversion, outside of your group,
17 who would you go and talk to?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. Around my role for my particular job I
21 only spoke to people in my group and my boss
22 primarily, and we worked with other teams depending
23 on the scope of the program. If we were working on
24 the enhancement and/or an update for our tool, our

1 CSO KPI, I would work with IT in that instance.

2 BY MR. MOUGEY:

3 Q. Did you go to whoever was running the
4 suspicious order review group -- before
5 Pharmaceutical Integrity, did you ever find out who
6 that person was prior to 2013?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. I don't know who it is or who it was,
10 what area.

11 BY MR. MOUGEY:

12 Q. Did you go to Ms. Polster and say, "Who
13 was running this before I got here? Let's go ask
14 them some of these questions"?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. No.

18 BY MR. MOUGEY:

19 Q. It didn't ever -- in your decade of
20 experience at this point in time as a pharmacist, a
21 clinical technician, compliance, it never dawned on
22 you to say, "I've got all these people that are new
23 and a new department. Where is the department that
24 was running this before me"? Did you ever go to

1 them?

2 A. Not that I recall.

3 Q. Did you ever ask for all the old, the
4 previous department's, all of their training
5 materials and what they were doing before you got
6 there?

7 A. Not that I recall.

8 Q. Do you recall being given any material
9 regarding identification of suspicious orders prior
10 to the creation of the Pharmaceutical Integrity
11 Department?

12 A. No, I don't recall.

13 Q. Do you recall any process when you first
14 got there of Pharmaceutical Integrity Department
15 going around and collecting, you know, documents
16 with policies and procedures regarding
17 identification of suspicious orders?

18 A. Can you repeat that.

19 Q. Do you remember any effort from your
20 group going to other departments collecting
21 documents, providing the criteria used to identify
22 suspicious orders prior to the creation of
23 Pharmaceutical Integrity?

24 A. No.

1 Q. Did you remember any effort to go review
2 the group before Pharmaceutical Integrity
3 Department, their policies and procedures about
4 identifying suspicious orders or contacting
5 pharmacies about the criteria of whether an order
6 was suspicious?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. Can you repeat the beginning part of
10 your question?

11 BY MR. MOUGEY:

12 Q. Did you ever -- do you recall reviewing
13 any prior department's material on criteria used to
14 identify suspicious orders?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. No.

18 BY MR. MOUGEY:

19 Q. Do you know if anyone was monitoring
20 suspicious orders before Pharmaceutical Integrity
21 Department?

22 A. Back in 2013?

23 Q. Before you got there, yes.

24 A. No, I don't recall.

1 Q. Do you know if there was a -- if there
2 was a group or a specific person that was
3 responsible for reviewing suspicious orders before
4 you got there?

5 MS. SWIFT: Objection; foundation.

6 BY THE WITNESS:

7 A. In 2013?

8 BY MR. MOUGEY:

9 Q. Prior to you getting there. You started
10 in January '13. Who was running the effort at
11 Walgreens to identify suspicious orders before you
12 got there in January '13?

13 A. When I first started in 2013, I did not
14 know who was running our suspicious order
15 monitoring program prior to 2013.

16 Q. And at any point in time after you
17 starting in January 2013 did you ever say, "Well,
18 let's go ask the folks that were doing this before
19 us"?

20 A. No, I did not.

21 Q. Do you have any understanding of why
22 Pharmaceutical Integrity Department was created?

23 A. I can only speculate. I don't know.

24 Q. Do you have any understanding that the

1 Pharmaceutical Integrity Department was created as
2 a result of the DEA investigations?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. No, I can only speculate. I don't know.

6 MR. YINGLING: I'm sorry to interject for a
7 moment. It's my understanding the phone line is
8 down right now. If that's the case, could we get
9 it back up?

10 MR. MOUGEY: I just would like to get -- 15
11 more minutes till lunch. If we can get that
12 without taking a break, that would be great. Can
13 everybody live with that?

14 MS. SWIFT: Sounds like there is an objection
15 to that.

16 (Clarification by the reporter.)

17 MR. MOUGEY: Do you mind if we wait 15 minutes
18 until lunch?

19 MR. YINGLING: I received an e-mail that
20 somebody who is on the line can't hear what's going
21 on right now. It's not my objection to stop.

22 MR. MOUGEY: Right, I haven't heard any
23 objection. Let's just take 15 minutes.

24 MS. SWIFT: You have heard an objection. You

1 proceed over the objection. I'm not going to tell
2 you what to do. But I take from this there is an
3 objection to proceeding because the phone line is
4 down, which is understandable. Let me just take a
5 minute and see if I can -- do we know which phone
6 like what they are connected to? I don't know who
7 set up the phone connection this morning.

8 MR. MOUGEY: I'm assuming your tech guys did.
9 I have no earthly idea.

10 (WHEREUPON, clarification by the
11 reporter - short interruption.)

12 MR. MOUGEY: Everybody back on the phone?

13 MS. MOBLEY-RITTER: Yes, thank you.

14 BY MR. MOUGEY:

15 Q. Let's go back to Daugherty 7. In the
16 bottom right-hand side of the page we were just on,
17 fourth page in, the sentence that begins with "The
18 'security requirement.'"

19 A. Okay.

20 Q. "The 'security requirement' at the heart
21 of this case mandates that distributors design and
22 operate a system to identify 'suspicious orders of
23 controlled substances' and report those orders to
24 DEA (the Reporting Requirement)."

1 Do you see that?

2 A. Yes.

3 Q. Can you describe what the system in
4 place when you arrived at Walgreens was to identify
5 suspicious orders of controlled substances?

6 MS. SWIFT: Objection; foundation.

7 BY THE WITNESS:

8 A. My understanding of our CSO KPI tool is
9 that there is an algorithm defined to flag orders
10 for our team to review and determine if they are
11 suspicious.

12 So, our pharmacies cannot place an order
13 on their own above the ceiling limit that's
14 calculated and the tolerance that's calculated on a
15 daily basis. If they try to place an order outside
16 of the ceiling limit and the tolerance, they have
17 to request an override from our team and approval
18 to receive additional controlled substance product.

19 BY MR. MOUGEY:

20 Q. And that was in place when you arrived
21 at Walgreens in 2013?

22 MS. SWIFT: Objection; foundation.

23 BY THE WITNESS:

24 A. The automated -- the full automated tool

1 was in place probably, and I am not 100% sure,
2 maybe a couple, two or three months after I
3 started. Yes, there was some manual component in
4 the beginning.

5 Q. There was some manual what?

6 A. Component in the beginning.

7 Q. What I'm interested in is not what was
8 created after you got there, but when you arrived.
9 What was in place when you arrived, what was the
10 system used to identify suspicious orders of
11 controlled substances before you got there?

12 MS. SWIFT: Objection; foundation.

13 BY THE WITNESS:

14 A. I don't recall.

15 BY MR. MOUGEY:

16 Q. Let me ask that a little bit better.

17 What was the system used to identify
18 suspicious orders of controlled substances when you
19 arrived at Walgreens?

20 MS. SWIFT: Objection; foundation.

21 BY THE WITNESS:

22 A. We had flagged orders to review and then
23 determine whether we were to report them as
24 suspicious.

1 BY MR. MOUGEY:

2 Q. But you don't have any understanding of
3 what that system was other than just a flagged
4 order appearing on your desktop?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I don't recall back in 2013.

8 BY MR. MOUGEY:

9 Q. During your training you referenced
10 notes earlier that you took during your training.
11 Do you still have those notes?

12 A. I have notes related to our SIMS sign-on
13 and password, things like that primarily. Those
14 are the notes I have, yes.

15 Q. Okay. So, when you reference that you
16 took notes during your training, it was password
17 and links and things of that nature?

18 A. Primarily.

19 Q. Well, are there other notes outside of
20 passwords and links that you -- that you kept?

21 MS. SWIFT: Objection; form.

22 BY THE WITNESS:

23 A. I don't think so. I can't recall. The
24 notes that I still have are all related to

1 primarily logging in, how to look up orders.

2 BY MR. MOUGEY:

3 Q. What concerns me is "primarily." It
4 means you're not sure if that's the entire scope,
5 correct?

6 A. I'm pretty sure, yes.

7 Q. Has anyone come to you and asked you for
8 those notes?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. No, because they're password -- they're
12 just passwords and --

13 BY MR. MOUGEY:

14 Q. Where are the notes?

15 MS. SWIFT: Let her finish her answer.

16 BY MR. MOUGEY:

17 Q. Are you finished?

18 A. Well, they're just -- they're just
19 passwords and how to get to like certain parts of
20 our SIMS system, our inventory system, to be able
21 to look up orders. There is nothing in there other
22 than step, press F7 or press F5 so I could remember
23 how to do that since that wasn't always something
24 that I did on a regular basis.

1 Q. And I appreciate your description but
2 the question I asked you was, did anyone come to
3 you and ask you for those notes?

4 A. No.

5 MS. SWIFT: Object to the form.

6 BY MR. MOUGEY:

7 Q. Do you know where those notes are now?

8 A. Yes.

9 Q. And where are they?

10 A. In my drawer locked up --

11 Q. Are there any --

12 A. -- in the office.

13 Q. Are there any other notes that you kept
14 regarding any other functions of your
15 responsibility in Pharmaceutical Integrity?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. No.

19 BY MR. MOUGEY:

20 Q. How many pages of notes are there locked
21 in your drawer?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. I don't recall. I can only guess. It's

1 a small little flip with maybe a handful of pages.

2 BY MR. MOUGEY:

3 Q. So, did you three-hole punch them and
4 put them into a notebook when you reference
5 "a flip"?

6 A. It was a notebook. Sorry. It was just
7 a small notebook.

8 Q. And do you have other documents in your
9 possession in regard to your training and documents
10 that you kept for you to rely back on?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Yes. I have documents related to, for
14 example, DEA 106 reporting and requirements state
15 by state, what's considered a C-5 in some states
16 versus what's not considered a C-5. I mean,
17 DAW 0 through 9 and their descriptions. Just
18 regular course of.

19 BY MR. MOUGEY:

20 Q. Just regular notes?

21 A. Notes, yeah.

22 Q. And outside of what you just referenced,
23 do you have any other documents that are in your
24 desk or office or drawer or briefcase or home that

1 relate in any way to you fulfilling your functions
2 in Pharmaceutical Integrity?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. No.

6 BY MR. MOUGEY:

7 Q. Now, in 2013, after reviewing the order
8 that's flagged and contacting the pharmacy or doing
9 whatever work you did, do you ever recall
10 identifying an order as suspicious?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Can you clarify. You meant back in
14 2013?

15 BY MR. MOUGEY:

16 Q. Yes, ma'am.

17 A. Not specifically, but I believe that I
18 may have.

19 Q. But you don't recall sitting here today
20 identifying any order specifically as suspicious in
21 the Midwest region in 2013?

22 A. I can't give you a specific example, no.

23 Q. I'm not asking for a specific example.
24 I'm asking just a general, do you recall

1 identifying orders as suspicious in your role as a
2 manager of the Midwest region for Pharmaceutical
3 Integrity at Walgreens in 2013?

4 A. I don't recall.

5 Q. So, once you got -- did you often e-mail
6 a pharmacy to ask questions in an order that was
7 flagged?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Actually I often called a pharmacy.

11 BY MR. MOUGEY:

12 Q. How did you memorialize that
13 conversation?

14 A. I'm more of a person that likes to call
15 and make sure that the person on the other end is
16 understanding what I'm asking. So, for the most
17 part, I just would make a call if I needed to to
18 understand the nature of why they were requesting
19 an additional product.

20 Q. So, is the answer to my question you
21 didn't memorialize the conversations at all?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. I did not write down my phone call

1 conversation, no.

2 BY MR. MOUGEY:

3 Q. Or take any notes on the phone call
4 conversations?

5 A. Other than what's in my e-mails, no.

6 Q. There wasn't any central repository for
7 any of these notes like a database or anything?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. We do have an area for notes in our
11 CSO KPI tool, so we have the ability to have the
12 pharmacy put in notes as well as us to put in notes
13 and reply to the pharmacy.

14 BY MR. MOUGEY:

15 Q. Prior to that tool being developed, was
16 there a centralized place for you to keep notes in
17 your communications with pharmacies?

18 A. Prior to that development I did not
19 record my phone calls with the pharmacies, no.

20 Q. And my question was a little different,
21 and I appreciate the answer. But the question was,
22 was there a place for you to keep them if you
23 wanted to?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Did someone provide me and say I needed
3 to put my notes in my phone conversations
4 somewhere? No.

5 BY MR. MOUGEY:

6 Q. There was no -- that you understand when
7 you began at Walgreens prior to the automated app
8 being deployed, there was not a centralized place
9 like a database for you to report your due
10 diligence on flagged orders?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Other than my e-mails. Not that I'm
14 aware of.

15 BY MR. MOUGEY:

16 Q. So, if you had a conversation months
17 before with a particular -- about a particular
18 pharmacy, how did you refresh your memory about
19 what you were told before?

20 A. I don't understand your question.

21 Q. Aren't patterns an important part of
22 your job with identifying what's a suspicious order
23 and what's not?

24 A. Can you clarify what you mean.

1 Q. Is the word "pattern" confusing?

2 A. I guess I don't understand what you're
3 trying to ask.

4 Q. Do you understand what the word
5 "pattern" means?

6 A. Yes, I do.

7 Q. A pattern of flagged orders from one
8 particular pharmacy that you would have to follow
9 up with, wouldn't that be important in your
10 day-to-day responsibilities as a manager for the
11 Midwest region Pharmaceutical Integrity?

12 A. If a pharmacy had requested the same
13 product and a month later. Is that what you're
14 saying?

15 Q. Something along those lines, sure.

16 A. For example, if they requested the same
17 product, I would still need to understand the
18 nature of why they need it and that they are
19 following good faith dispensing and filling the
20 prescription legitimately and they need it for
21 legitimate patients.

22 Q. I understand. But the fact that you
23 might have had to contact that pharmacy before,
24 that pharmacist before, wouldn't that be an

1 important part of your function for identifying
2 suspicious orders?

3 A. I think a pharmacy may ask for the same
4 two bottles of a product a month later and as long
5 as I -- my understand is that it's for a legitimate
6 prescription, I would not consider that suspicious.

7 Q. What I asked you was aren't patterns an
8 important part of fulfilling your responsibility as
9 manager of the Midwest region for Pharmaceutical
10 Integrity. Is the answer to the question no?

11 A. I think that my job in fulfilling my
12 role is to ensure that the order is not considered
13 suspicious, and that's what I would do.

14 Q. In your job as determining whether an
15 order is suspicious or not, are not patterns an
16 important part of that decision-making process?

17 A. I think my decision-making process in
18 determining whether an order was suspicious was to
19 determine if the product was needed to fulfill
20 legitimate prescriptions and if our pharmacists
21 understood their corresponding responsibilities.
22 So, that would be my understanding of if a store
23 repeated the order a month later.

24 Q. So, a pattern is not important to you

1 whether it happened month after month for you to go
2 back and look at notes that happened in previous
3 months?

4 A. Again, I think a pattern of an order
5 from a store from one month to the next, if it was
6 for a couple bottles asking for legitimate
7 prescriptions to fill and they wanted two extra
8 bottles or what -- for example, two extra bottles,
9 I think that that as long as the patient -- the
10 patients were coming in and they needed their
11 prescriptions filled and the pharmacist was
12 fulfilling their good faith dispensing, I don't --
13 I think I was doing my job.

14 Q. And I'm not suggesting otherwise. I'm
15 just trying to get an answer to a very simple
16 question.

17 You do not believe that patterns were an
18 important part of fulfilling your responsibility as
19 a manager of the Midwest region for Pharmaceutical
20 Integrity, correct?

21 MS. SWIFT: Objection.

22 BY THE WITNESS:

23 A. In my experience, I don't think that
24 that factored in into the actual situations when I

1 had to call a pharmacy or work with a pharmacy on a
2 flagged order.

3 BY MR. MOUGEY:

4 Q. So, the answer to my question is no, I
5 really don't think that patterns are important in
6 part of your job of identifying suspicious orders
7 for Walgreens in Pharmaceutical Integrity, right?
8 The answer is no, I don't think they're important,
9 isn't that the answer?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. In my experience it wasn't an issue in
13 identifying a suspicious order when I was reviewing
14 them.

15 BY MR. MOUGEY:

16 Q. Yes, ma'am. Patterns were not an issue
17 and were not an important part of your analysis in
18 identifying suspicious orders, correct?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. No. That's not what I said.

22 In my job, in my experience in working
23 with the stores, identifying a pharmacy that had a
24 repeat order for however many bottles, as long as

1 my understanding was that that order was for a
2 legitimate reason, I did not consider that
3 suspicious if they were filling for legitimate
4 prescriptions.

5 BY MR. MOUGEY:

6 Q. Let's do it this way. When you've got
7 an order that was flagged as suspicious, did you go
8 back and look to see if you had had similar
9 conversations with that pharmacy in the past?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. Back in 2013?

13 BY MR. MOUGEY:

14 Q. Yes.

15 A. So, in the CSO KPI tool there is a
16 record of a previous approval or override to allow
17 the store to receive additional product.

18 Q. That was deployed months after you got
19 there.

20 When you got there, did you go back and
21 pull notes of previous conversations with that
22 pharmacy when performing your due diligence on a
23 flagged order?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. If there was e-mail, yes, I would go
3 back and pull my previous conversation.

4 BY MR. MOUGEY:

5 Q. So, prior to CSO KPI, was there a way to
6 see or identify any particular patterns that you
7 think may have been useful when identifying a
8 suspicious order?

9 MS. SWIFT: Object to the form, foundation.

10 BY THE WITNESS:

11 A. I don't recall the way the flagged
12 orders were determined when I first started. It
13 was in the very beginning of when I first started.

14 BY MR. MOUGEY:

15 Q. I understand. My question is a little
16 different, though.

17 What I asked was, prior to CSO KPI was
18 there a way to see or identify any particular
19 patterns you wanted to use when determining whether
20 an order was suspicious?

21 MS. SWIFT: Objection; foundation.

22 BY THE WITNESS:

23 A. I don't know.

24 BY MR. MOUGEY:

1 Q. What do you mean you don't know?

2 A. I don't know.

3 Q. You don't recall if there was any tool
4 you could use to identify any patterns?

5 A. No, I don't recall.

6 Q. Before we leave the system, when you got
7 there, kind of as a recap here, what I think --
8 we've covered ground and you correct me if I'm
9 wrong.

10 I think that what I understand you
11 saying is you don't remember the specifics of the
12 system used to identify suspicious orders, is that
13 accurate?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't remember the specifics of the
17 system when I first started in that first month or
18 two.

19 BY MR. MOUGEY:

20 Q. There was no mechanism when you started
21 in those first couple months for you to collect any
22 of your notes regarding flagged orders, correct?

23 MS. SWIFT: Objection; mischaracterizes the
24 testimony.

1 BY THE WITNESS:

2 A. I was able to collect my notes either in
3 e-mail or in anything else that I would have
4 written down or kept at the time.

5 BY MR. MOUGEY:

6 Q. No database, no way for you or others to
7 see notes, correct?

8 MS. SWIFT: Objection; foundation.

9 BY THE WITNESS:

10 A. I just don't recall.

11 BY MR. MOUGEY:

12 Q. So you don't recall. You don't recall
13 if you actually identified any suspicious orders
14 for the entire Midwest region when you first got to
15 Walgreens under the system that you don't recall
16 what it is, correct?

17 A. I just don't remember in the first two
18 months.

19 Q. But you don't recall whether you marked
20 any suspicious orders the first -- any flagged
21 orders as suspicious the first couple months,
22 correct?

23 A. I don't remember if I flagged them.

24 Q. Now, do you recall then if any orders

1 were deemed suspicious were actually reported to
2 the DEA the first few months you were at Walgreens?

3 A. I don't know in the first few months. I
4 do know we reported suspicious orders to the DEA to
5 the local offices.

6 Q. And you don't have -- what do you know
7 about reporting suspicious orders to the DEA local
8 offices?

9 MS. SWIFT: Objection; foundation.

10 MR. MOUGEY: I asked you what -- what in the
11 world could be the objection to "What do you know
12 about reporting suspicious orders to the DEA
13 office?" Tell me what your objection is.

14 MS. SWIFT: I'll withdraw the objection for
15 you, Peter.

16 MR. MOUGEY: You've objected -- I know my
17 questioning -- I'm nobody's -- I'm not signing up
18 to teach any classes, but I think every single
19 question I've asked, maybe minus a handful, have
20 been objected to.

21 BY MR. MOUGEY:

22 Q. So, I just asked, what was your
23 understanding about Walgreens reporting suspicious
24 orders to the DEA in early 2013 when you got there?

1 A. I remember probably -- my first
2 recollection would probably be a few months later
3 where I know we were reporting suspicious orders,
4 faxing them to the local DEA offices. That's all I
5 remember.

6 Q. That's all you know?

7 A. That's all I remember.

8 Q. That's all you remember. You don't
9 remember what the criteria was?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. That was based on the flagged orders and
13 our team identifying them as suspicious.

14 BY MR. MOUGEY:

15 Q. You don't know which orders went to
16 which -- which suspicious orders went to which DEA
17 offices?

18 A. Well, they were designated based on the
19 store and the location.

20 Q. And who was responsible for sending
21 those to the DEA?

22 MS. SWIFT: Object to the form.

23 BY MR. MOUGEY:

24 Q. The suspicious order reports.

1 A. I -- my -- I think I remember our
2 analysts were responsible and we were responsible.

3 Q. Who particularly when you say
4 "analysts"?

5 A. Honestly, I don't think it was any one
6 person that I can recall.

7 Q. It was just everybody just sending in
8 suspicious orders as they found them?

9 A. Honestly, I don't remember the exact
10 process.

11 Q. I'm just asking generally, just
12 generally, who sent the suspicious orders and where
13 were they kept?

14 A. They were --

15 MS. SWIFT: Object to the form, compound.
16 Which question do you want her to answer?

17 MR. MOUGEY: I want her to answer one question
18 without something "I don't know."

19 MS. SWIFT: I'm sorry.

20 BY MR. MOUGEY:

21 Q. Where were the orders -- where were the
22 suspicious order reports to the DEA kept if you
23 wanted to go back and look at them in early '13?

24 A. If I recall correctly, they were faxed

1 from our e-mail, our group e-mail, and kept in a
2 folder.

3 Q. But you --

4 A. If I remember correctly.

5 Q. You don't recall specifically?

6 A. Not 100% specific, no.

7 Q. What folder?

8 A. I don't recall what it was called.

9 Q. So, did you go back and look at previous
10 suspicious orders as part of contacting pharmacies
11 about whether an order was suspicious?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. I don't recall. I may have.

15 BY MR. MOUGEY:

16 Q. Let's continue at the bottom of this
17 page.

18 "The Reporting Requirement is a
19 relatively modest one. It requires only that a
20 distributor provide basic information about certain
21 orders to the DEA, so that DEA 'investigatory in
22 the field' can aggregate reports from every point
23 along the legally regulated supply chain and use
24 that information to ferret out 'potential illegal

1 activity.'" "

2 Did I read that right?

3 A. Yes.

4 Q. Do you believe when you got to
5 Walgreens, when you arrived in early '13, that
6 Walgreens was providing basic information to the
7 local DEA offices about suspicious orders?

8 A. When I first started do I believe --

9 Q. Yes.

10 A. -- that Walgreens was sending suspicious
11 orders?

12 Q. To the local DEA office.

13 A. That would be my understanding.

14 Q. Do you think it would be important that
15 the local DEA offices would only get suspicious
16 orders for orders within their purview?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I don't know. My understanding was that
20 the stores in their area would receive the
21 suspicious orders.

22 BY MR. MOUGEY:

23 Q. Was -- that would make sense, right,
24 that they only got the suspicious orders for stores

1 in their area, correct?

2 MS. SWIFT: Object to the form, foundation.

3 BY THE WITNESS:

4 A. My understanding is that the local
5 office should be receiving suspicious orders from
6 stores in their area.

7 BY MR. MOUGEY:

8 Q. Right. You wouldn't expect that
9 Walgreens was sending suspicious orders from Topeka
10 to the San Francisco DEA office, right?

11 MS. SWIFT: Objection; foundation.

12 BY THE WITNESS:

13 A. Again, I don't know exactly what the
14 requirements were for reporting to the DEA local
15 offices if the requirement was this area covers
16 this office. I didn't have specifics on that.

17 BY MR. MOUGEY:

18 Q. So you don't. So, if you went to enter
19 a suspicious order, where would you send it?

20 MS. SWIFT: Object to the form.

21 BY MR. MOUGEY:

22 Q. Which DEA field office would you send it
23 to?

24 MS. SWIFT: Object to the form.

1 BY MR. MOUGEY:

2 Q. Initially in early '13.

3 A. I would look up the DEA local office and
4 identify the store and if I had a question of
5 whether it should go to that office, I would call
6 that office and ask them.

7 BY MR. MOUGEY:

8 Q. Were you responsible for sending the
9 individual suspicious orders to the DEA field
10 offices?

11 A. No.

12 Q. Who sent them? What did you do with
13 them after you flagged them as suspicious?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. Our analysts sent them, my understanding
17 was, and we would save them again in a folder in
18 our e-mail group box.

19 BY MR. MOUGEY:

20 Q. In your e-mail group box. What was the
21 e-mail that you were using as the e-mail group?

22 [REDACTED]

23 Q. So, when you mentioned earlier sending
24 faxes, is that like an old-school fax machine or

1 was that something off of your internal system that
2 was a fax?

3 A. It was an electronic fax is how I
4 understood.

5 Q. Were those -- those were stored in the
6 shared file?

7 MS. SWIFT: Objection; form.

8 BY THE WITNESS:

9 A. As far as I know.

10 BY MR. MOUGEY:

11 Q. But you're not sure?

12 A. That's my understanding, yes. I did not
13 send the suspicious orders so I can't be 100% sure,
14 but I believe that's where they were stored.

15 MS. SWIFT: It's about ten after 12:00, if we
16 want to break for lunch.

17 MR. MOUGEY: Thanks. Let's finish with this
18 document if we could.

19 BY MR. MOUGEY:

20 Q. If you could turn the page.

21 Do you have an understanding of whether
22 once an order was reported as suspicious to the
23 DEA, whether that order was shipped?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I believe that if an order was sent as
3 suspicious to the DEA in our system, that would not
4 be allowed. Our store could not receive product.

5 Because our system automatically flagged
6 an order and if the store could not provide
7 explanation to substantiate or we felt that it was
8 considered a suspicious order, it would never have
9 gone to the store.

10 BY MR. MOUGEY:

11 Q. And then that order was modified to
12 bring it below the ceiling, correct?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. No, it was completely stopped, actually.
16 The system would stop the order.

17 BY MR. MOUGEY:

18 Q. What time frame are you referencing that
19 it was completely stopped?

20 A. My understanding was when we implemented
21 our CSO KPI tool.

22 Q. Before that, before the automation, do
23 you have an understanding of whether or not a
24 suspicious order that was flagged and sent to the

1 DEA was then shipped?

2 MS. SWIFT: Objection; foundation.

3 BY THE WITNESS:

4 A. No, I don't recall.

5 BY MR. MOUGEY:

6 Q. You don't have an understanding?

7 A. No. I don't recall.

8 Q. Let's flip the page. Let's go to the
9 "Once a distributor has reported a suspicious
10 order, it must make one or two choices."

11 MS. SWIFT: What page are you on?

12 MR. MOUGEY: The next page.

13 MS. SWIFT: Which one, please?

14 MR. MOUGEY: The back side of the page we were
15 just on. I don't have the page number. Just turn
16 the page.

17 BY MR. MOUGEY:

18 Q. Do you see --

19 MS. SWIFT: From which page?

20 BY MR. MOUGEY:

21 Q. -- "Information" --

22 MR. MOUGEY: The one we were just on.

23 BY MR. MOUGEY:

24 Q. "Information to ferret out potential

1 illegal activity."

2 Do you see at the top of the page if you
3 turn it?

4 MS. SWIFT: We don't know which page you're
5 on. She is not on that page.

6 THE WITNESS: Oh. This page.

7 BY MR. MOUGEY:

8 Q. The fourth page in.

9 MS. SWIFT: That one.

10 BY MR. MOUGEY:

11 Q. Fourth page in.

12 MS. SWIFT: She's there.

13 BY MR. MOUGEY:

14 Q. Are you there?

15 A. Yeah.

16 Q. Okay. Great. The language that begins
17 with "Once a distributor has reported a suspicious
18 order, it must make one of two choices: decline to
19 ship the order or conduct some 'due diligence'
20 and - if it is able to determine that the order is
21 not likely to be diverted into illegal channels -
22 ship the order."

23 Do you see that?

24 A. Yes.

1 Q. Do you agree based on your training at
2 Walgreens that if an order that's been flagged as
3 suspicious is shipped without due diligence that
4 that is unlawful?

5 MS. SWIFT: Object to the form of the
6 question.

7 BY THE WITNESS:

8 A. I don't think that I would interpret
9 it -- I would work with our legal to interpret
10 this.

11 BY MR. MOUGEY:

12 Q. You would. You'd work with legal.

13 A. To understand how we should interpret
14 it, yeah.

15 Q. Okay. So, you thought it was important
16 that you would contact legal to help with
17 compliance issues regarding suspicious orders?

18 A. Yes.

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. Compliance issues related to state
22 requirements for DEA 106s.

23 BY MR. MOUGEY:

24 Q. We're not talking about -- I'm asking

1 about due diligence and whether or not due
2 diligence needs to be performed before an order is
3 shipped. Okay?

4 So, 106 is relating to thefts, correct?

5 A. Correct.

6 Q. And you understand and agree that
7 suspicious orders are broader than 106, right?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Suspicious orders are different than the
11 106 process, yes.

12 BY MR. MOUGEY:

13 Q. So, what I'm asking about is suspicious
14 orders. Is it your understanding that due
15 diligence would need to be performed prior to that
16 order being shipped or that order is deemed
17 unlawful?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. Again, because our CSO KPI tool flagged
21 the order and stopped the order before it was
22 shipped, I didn't have or didn't have reason to
23 work with legal and didn't ask them about this
24 because the order was stopped. It was flagged and

1 stopped. So, the store never received the order.

2 BY MR. MOUGEY:

3 Q. Prior to the tool being implemented, do
4 you have an understanding of whether or not a
5 suspicious order that was shipped without due
6 diligence, is that unlawful?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. No, I don't recall what happened prior
10 to the CSO KPI tool.

11 BY MR. MOUGEY:

12 Q. So we can just add that on to the list
13 of things that you don't recall prior to the
14 automation?

15 A. I don't recall.

16 Q. Do you recall how long Walgreens
17 distributed Schedule II after you arrived at
18 Walgreens?

19 A. I recall that our DCs were distributing
20 C-IIs after I arrived at Walgreens.

21 Q. And how long were your DCs, your
22 distribution centers, distributing Schedule IIs
23 after you arrived?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I don't know. I can only speculate.

3 BY MR. MOUGEY:

4 Q. A matter of a few months?

5 A. At some point maybe in 2013 or 2014.

6 Q. Would you agree with me that
7 Pharmaceutical Integrity as to Walgreens' practices
8 prior to 2013 is not the right department?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Can you repeat the question.

12 BY MR. MOUGEY:

13 Q. Walgreens' Pharmaceutical Integrity
14 Department are not the right people to ask what
15 Walgreens' system was to identify suspicious orders
16 and perform due diligence prior to 2013?

17 MS. SWIFT: Object to the form, foundation.

18 BY THE WITNESS:

19 A. I would agree that prior to when I
20 started in 2013, I would not be the person to ask
21 what happened before I started in that position.

22 BY MR. MOUGEY:

23 Q. And that makes sense, right?
24 Pharmaceutical Integrity, everyone that started in

1 Pharmaceutical Integrity started within a few
2 months of you, correct?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. With the exception of maybe a couple
6 people, yeah.

7 BY MR. MOUGEY:

8 Q. Well --

9 A. Yes.

10 Q. -- the Pharmaceutical Integrity
11 Department was created in late 2012, early 2013,
12 right?

13 A. Yes.

14 Q. So, Pharmaceutical Integrity is not the
15 right department to ask about Walgreens' conduct
16 prior to 2013, correct?

17 MS. SWIFT: Object to the form, foundation.

18 BY THE WITNESS:

19 A. I don't know.

20 BY MR. MOUGEY:

21 Q. You don't know that either. But you
22 certainly don't know anything about Walgreens'
23 conduct prior to 2013, right?

24 A. No.

1 Q. So, the context of your testimony today
2 is whenever you started, January of '13, until when
3 Walgreens stopped distributing Schedule IIs, fits
4 into whatever that period of months is. That's
5 what you know about, right?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. I know about what happened after I
9 started in my position in January '13.

10 BY MR. MOUGEY:

11 Q. Let's talk about Schedule IIs.
12 Schedule IIs, distribution from Walgreens. The
13 only time period that you're knowledgeable about is
14 from the date you started, January '13, until when
15 Walgreens stopped distributing Schedule IIs, right?

16 A. I don't know --

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I don't know about distribution prior to
20 January of 2013.

21 BY MR. MOUGEY:

22 Q. Right. And then sometime in 2013
23 Walgreens stopped distributing Schedule IIs,
24 correct?

1 A. I don't know exactly --

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. -- when they stopped.

5 BY MR. MOUGEY:

6 Q. Right. I'm not asking you. Sometime in
7 2013, right?

8 A. Possibly, yes. I don't know.

9 Q. So, you specifically, Pharmaceutical
10 Integrity, your scope of knowledge about
11 Schedule II narcotics and identifying and reporting
12 suspicious orders is a matter is a matter -- for
13 Schedule II, is a matter of months, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't -- can you repeat the question.

17 BY MR. MOUGEY:

18 Q. Schedule II narcotics. OxyContin. Your
19 factual knowledge about Walgreens' policies and
20 procedures for identifying and reporting suspicious
21 orders fits into just a matter of months, correct?

22 MS. SWIFT: Object to the form,
23 mischaracterizes the testimony all day.

24 BY THE WITNESS:

1 A. I don't know how long that was that we
2 were reporting suspicious orders from when I
3 started in January 2013 to when we stopped that
4 process.

5 BY MR. MOUGEY:

6 Q. For Schedule IIs when you stopped
7 distributing, correct?

8 A. Yeah, I don't know how long that was.

9 Q. And I understand. You've said that
10 repeatedly.

11 But you do know that sometime in 2013
12 Walgreens stopped distributing Schedule IIs,
13 correct?

14 MS. SWIFT: Objection; mischaracterizes the
15 testimony.

16 BY THE WITNESS:

17 A. Again, maybe 2013 or 2014 is what I --

18 BY MR. MOUGEY:

19 Q. So now we're into 2014. But you're not
20 sure?

21 A. I said that earlier.

22 Q. Let's do it this way. Your body of
23 knowledge about identifying and reporting
24 suspicious orders for controlled substances is no

1 longer than a matter of months or a little more
2 than a year?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. Depending on when we stopped
6 distributing controlled substances, my knowledge is
7 from January 2013 to when we stopped distributing.

8 MS. SWIFT: We have been going about for an
9 hour and a half and it is now close to 12:30. We
10 are going to break for lunch.

11 THE VIDEOGRAPHER: We're going off the record
12 at 12:20 p.m.

13 (WHEREUPON, a recess was had
14 from 12:20 to 1:02 p.m.)

15 THE VIDEOGRAPHER: We are back on the record
16 at 1:02 p.m.

17 BY MR. MOUGEY:

18 Q. Ms. Daugherty, if I could please take
19 you back to Exhibit 7 and the language that we left
20 off in Exhibit 7 that "Once a distributor has
21 reported a suspicious order."

22 A. "It must make one of two choices"?

23 Q. Yes, ma'am.

24 A. Yes.

1 Q. Will you read that last sentence for me.

2 A. "It must make one of two choices:

3 decline to ship the order or conduct some due

4 diligence and - if it is able to determine that the

5 order is not likely to be diverted into illegal

6 channels - ship the order."

7 Q. And I apologize if I wasn't clear. Let

8 me just read the whole thing.

9 "Once a distributor has reported a

10 suspicious order, it must make one of two

11 decisions, choices: decline to ship the order or

12 conduct some due diligence and - if it is able to

13 determine that the order is not likely to be

14 diverted into illegal channels - ship the order."

15 Did I read that right?

16 A. Yes.

17 Q. So, once there is a suspicious order,

18 the distributor, which is Walgreens, has two

19 choices, correct?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. Based on this language, which, again, I

23 don't know if this is a legal requirement or what

24 the document, I've never seen this document before.

1 It says -- it says it must make one of two choices.

2 BY MR. MOUGEY:

3 Q. Do you have an understanding of one of
4 those two choices that once an order is suspicious,
5 if no due diligence is performed and it's shipped
6 anyways, that that's unlawful?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. No, I don't have an understanding of
10 that. Based on this document, I see that it says
11 it must make one of two choices, decline to ship
12 the order or conduct some due diligence.

13 BY MR. MOUGEY:

14 Q. And the due diligence is designed to
15 determine whether the order is not likely to be
16 diverted into illegal channels, correct?

17 A. Can you repeat the question.

18 Q. And the due diligence is supposed to be
19 designed to determine whether the order is not
20 likely to be diverted into illegal channels.

21 Do you see that?

22 A. Yes.

23 Q. So, according to this document, once an
24 order is flagged suspicious, if there is no due

1 diligence and it's shipped anyways, based on your
2 years of experience in Pharmaceutical Integrity,
3 that shipment is unlawful, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I see that according to what it says
7 here in this document that if they declined to ship
8 the order or conduct some due diligence and if it
9 is able to determine that the order is not likely
10 to be diverted into illegal channels, it says, ship
11 the order.

12 BY MR. MOUGEY:

13 Q. But if no due diligence is performed and
14 it's shipped anyways, that's an unlawful order,
15 correct?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. I don't know. This -- I don't know
19 where this document came from. I see that it says
20 once a distributor reports a suspicious order it
21 must make one of two choices, decline to ship or
22 conduct due diligence.

23 BY MR. MOUGEY:

24 Q. Based on your 2013 to now, you've been

1 in Pharmaceutical Integrity for years of which you
2 were responsible for identifying suspicious orders.

3 Do you have an understanding of whether
4 or not if due diligence is not performed on a
5 suspicious order and it's shipped anyways, it's
6 unlawful?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. I don't know. I'm not familiar with
10 this document. This is the first time I'm seeing
11 this document.

12 BY MR. MOUGEY:

13 Q. I'm not asking you about the document
14 right now. I'm asking you based on your years of
15 experience at Walgreens, and you've been in
16 Pharmaceutical Integrity group right now since
17 January of '13, correct?

18 A. Correct.

19 Q. And your job responsibility was to
20 identify suspicious orders, correct?

21 A. Yes.

22 Q. Do you have an understanding that if an
23 order is identified as suspicious and no due
24 diligence is performed and it's shipped anyways,

1 that that is an unlawful order?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. My understanding is our CSO KPI tool
5 that flags an order when an order cannot be
6 substantiated and is considered suspicious is not
7 shipped at all in our process. That's my
8 understanding and my job.

9 BY MR. MOUGEY:

10 Q. I understand, and I understand that's
11 the new process after you got to Walgreens.

12 MS. SWIFT: Object to the form.

13 BY MR. MOUGEY:

14 Q. But if in fact an order is shipped
15 without due diligence being performed, that is an
16 unlawful shipment, correct, Ms. Daugherty?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I can't speculate as to what this
20 document is or where it's coming from --

21 BY MR. MOUGEY:

22 Q. Close the document.

23 A. -- or what this is saying.

24 Q. Close the document. Keep it up on the

1 screen. Close the document.

2 What I'm asking you is from your start
3 at January of 2013 in Pharmaceutical Integrity,
4 correct?

5 A. Yes.

6 Q. You were responsible for identifying
7 suspicious orders for Walgreens in the Midwestern
8 region initially, correct?

9 A. Yes.

10 Q. Do you have an understanding of whether
11 or not a suspicious order is shipped without
12 performing due diligence, it's unlawful?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. I don't know.

16 BY MR. MOUGEY:

17 Q. You don't know?

18 A. No.

19 Q. So we can just add that on to the
20 laundry list of things that you don't know?

21 A. I don't know.

22 MS. SWIFT: Object to the form.

23 BY MR. MOUGEY:

24 Q. Who do we ask at Walgreens of whether or

1 not its belief that an order -- a suspicious order
2 that was shipped without any due diligence is
3 unlawful? Who would you think would be the right
4 people to ask?

5 MS. SWIFT: Objection; foundation.

6 BY THE WITNESS:

7 A. If the order was shipped but there was
8 no due diligence accomplished? The interpretation
9 of that. I would ask our attorneys.

10 BY MR. MOUGEY:

11 Q. So, the compliance issue about whether
12 or not an order can be shipped without due
13 diligence is something that you would ask the
14 attorneys?

15 A. If that was part of my role and
16 responsibility at the time, yes, I would have
17 asked. But I did not.

18 Q. What do you think happened after you
19 identified an order as suspicious before the
20 automation was in place? Do you have an
21 understanding of whether somebody performed due
22 diligence and whether or not the order was held
23 until that due diligence was accomplished?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I recently learned that there was a
3 suspicious order monitoring process that was
4 managed maybe at our DCs, but I don't know that to
5 be a true fact. Just what I heard.

6 BY MR. MOUGEY:

7 Q. Who trained you when you got to
8 Walgreens?

9 A. Steve Mills and Tasha Polster.

10 Q. No one else?

11 A. Not that I recall.

12 Q. So, you have no understanding when you
13 got to Walgreens whether or not it was shipping
14 orders that it deemed suspicious without due
15 diligence?

16 A. I do not have any recollection of that,
17 no.

18 Q. Was part of your initial training at
19 Walgreens a -- strike that.

20 Did you have an understanding of the
21 sense of urgency or the importance of your job
22 identifying suspicious orders of controlled
23 substances?

24 A. When I started in 2013, I did understand

1 the importance of my job and making sure that we
2 were reporting suspicious orders as appropriate and
3 reviewing flagged orders, yes.

4 Q. And once you reported a suspicious
5 order, did you have an understanding that the DEA
6 was using that information to ferret out illegal
7 activity?

8 A. I don't know what the DEA was doing with
9 that information.

10 Q. Nobody ever told you in your training
11 that what the DEA did or didn't do with the
12 suspicious orders that you -- that you all were
13 working on?

14 A. I can't say that anyone ever told me
15 what the DEA was doing with our suspicious orders.

16 Q. Did you have any understanding of
17 whether or not Congress had been investigating
18 opiate crisis for over a decade before you got to
19 Walgreens?

20 A. Back in 2013, I did not know that.

21 Q. Did you have an understanding of the
22 sense of urgency with what you were doing at
23 Walgreens to develop an automated system for
24 identifying suspicious orders?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. I had an understanding that it was very
4 important that we develop the system correctly and
5 that it worked as we intended, yes.

6 BY MR. MOUGEY:

7 Q. What was your understanding of why that
8 was important?

9 A. Just to make sure that we didn't have
10 the system work improperly and that we didn't have
11 to go back and make any changes or major fixes
12 because that always takes time.

13 Q. But why was it important? We saw
14 documents earlier referring back to the Controlled
15 Substance Act in 1970 about the substantial impact
16 on the public health from opiates going back almost
17 decades. Did you have any understanding of how bad
18 it was when you started in January of '13?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. I don't know how bad it was. That's
22 just what you're saying. I don't know.

23 BY MR. MOUGEY:

24 Q. It's what I'm saying, Peter Mougey as

1 Plaintiff's counsel, what I'm saying. You didn't
2 have any understanding of that in 2013?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. I would say I had an understanding that
6 there was a prescription drug issue with abuse in
7 the country at that time.

8 BY MR. MOUGEY:

9 Q. An issue. Let me hand you what I will
10 mark as Daugherty Exhibit 8.

11 (WHEREUPON, a certain document was
12 marked as Walgreens-Daugherty
13 Deposition Exhibit No. 8:
14 Document, "OxyContin: Its use and
15 Abuse," etc., 8/28/01 hearing;
16 PGEN-0047.)

17 MR. MOUGEY: I'm going to hand you a series of
18 these documents.

19 BY MR. MOUGEY:

20 Q. Do you see the title of this document,
21 Daugherty Exhibit 8, "OxyContin: Its Use and
22 Abuse, Hearing Before the Subcommittee on Oversight
23 and Investigations of the Committee on Energy,
24 Commerce, House of Representatives."

1 Do you see that?

2 A. Yes.

3 Q. Do you see the date below it?

4 A. Yes.

5 Q. What date is that?

6 A. August 28, 2001.

7 Q. So, the issue as you described it with
8 opiate prescriptions, were you aware that as early
9 as the early 2000s that there were hearings before
10 Congressional subcommittees regarding OxyContin?

11 A. No.

12 Q. And OxyContin was one of the drugs that
13 you were responsible for identifying suspicious
14 orders and reporting them to the DEA, correct?

15 A. Yes.

16 Q. And Walgreens was making decisions about
17 whether to ship those suspicious orders or not,
18 correct?

19 A. My team was making decisions whether to
20 flag the order as suspicious, yes, and shipped to
21 the store.

22 Q. If you would, please turn to -- it's
23 page 1 of the document and it's titled "OxyContin:
24 Its Use and Abuse." It's three pages into the

1 document.

2 If you go all the way to the bottom of
3 that page, and this committee charged with
4 investigating OxyContin said that "Today's hearing
5 is the logical extension of this subcommittee's
6 ongoing investigation into prescription drug abuse
7 throughout the United States. My staff and I have
8 met on numerous occasions with the DEA, the FDA and
9 Purdue Pharma in order to investigate the trends of
10 OxyContin abuse and diversion and well as to
11 explore potential solutions."

12 Do you see that?

13 A. Is that at the bottom of the page?
14 Sorry. I didn't catch that.

15 Q. Bottom of page 1 and into the beginning
16 of page 2. Take your time and read it.

17 A. Yes. I see that.

18 Q. So, when you started in the beginning of
19 2013, you weren't aware that going as far back as
20 2001 there were ongoing investigations into
21 OxyContin and its misuse?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. No.

1 BY MR. MOUGEY:

2 Q. If you go into the next paragraph,
3 "Sadly, prescription drug abuse is a growing
4 national problem. According to the National
5 Institute of Drug Abuse, as recently as 1999, more
6 than 9 million Americans, aged 12 and older,
7 reported that they used prescription drugs at least
8 once that year for non-medical reasons."

9 Do you see that?

10 A. Yes.

11 Q. Did I read that correctly?

12 A. Yes.

13 Q. This was a growing and exploding health
14 epidemic as early as 2001, correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. That's what this document says, yes.

18 BY MR. MOUGEY:

19 Q. But you had no understanding of that
20 when you began at Walgreens, correct?

21 A. No, I was not aware of this document --

22 Q. Not this document.

23 A. -- when I started.

24 Q. Not this document. The fact that there

1 were ongoing Congressional investigations into
2 OxyContin abuse dating 13 years prior to you
3 getting to Walgreens. Were you aware of that?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I was not aware of Congressional
7 investigations back to 2001, no.

8 BY MR. MOUGEY:

9 Q. Let me hand you what I will mark as
10 exhibit -- Daugherty Exhibit 9.

11 (WHEREUPON, a certain document was
12 marked as Walgreens-Daugherty
13 Deposition Exhibit No. 9: GAO
14 Report to Subcommittee on Oversight
15 and Investigations; P1.1076 -
16 P1.1076.27.)

17 BY MR. MOUGEY:

18 Q. Do you know what GAO, Government
19 Accountability Office, stands for or do you know
20 what that is?

21 A. No, I don't.

22 Q. Do you see this GAO document dated
23 May 2002, "Report to the Subcommittee on Oversight
24 and Investigations, Committee on Energy and

1 Commerce, House of Representatives"? Do you see
2 that?

3 A. Yes.

4 Q. And this is less than a year after
5 Daugherty 7, the reference to ongoing
6 investigations into OxyContin, correct?

7 A. This is less than a year. Say that
8 again.

9 Q. Yes, ma'am. This GAO report to the same
10 subcommittee is less than a year after the first
11 document in Daugherty 7 that we just looked at,
12 correct?

13 A. The document that first was in 2001, is
14 that what you're referring to?

15 Q. Yes, ma'am. August of 2001.

16 A. Yes. It's a year.

17 Q. May of 2002.

18 A. Right.

19 Q. Less than a year, right?

20 A. Right.

21 Q. Thank you.

22 And if you would, please, let's continue
23 with the title, "Prescription Drugs, State
24 Monitoring Programs Provide Useful Tool to Reduce

1 Diversion."

2 Do you see that?

3 A. Yeah.

4 Q. If you would, please turn to page 4 of
5 this document. It's in the middle of the bottom.
6 In the "Background" section.

7 A. Okay.

8 Q. You understand that when there are
9 Congressional subcommittee ongoing investigations
10 that that usually is a matter of significant import
11 to the American public, correct?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. I can't speculate.

15 BY MR. MOUGEY:

16 Q. Yeah, that's -- under "Background,"
17 "The diversion and abuse of prescription drugs are
18 associated with incalculable costs to society in
19 terms of addiction, overdose, death and related
20 criminal activities."

21 Do you see that first sentence?

22 A. Yes.

23 Q. Do you agree with that?

24 A. Yes.

1 Q. The next sentence, "DEA has stated that
2 the diversion and abuse of legitimately produced
3 controlled pharmaceuticals constitute a
4 multi-billion dollar illicit market nationwide."

5 Do you see that sentence?

6 A. Yes.

7 Q. Did I read it correctly?

8 A. Yes.

9 Q. Were you aware when you started at
10 Walgreens in 2013 that the diversion and abuse of
11 the pharmaceuticals, Schedule II and III that
12 Walgreens distributed and dispensed, that the
13 illicit market was multi-billion dollars?

14 MS. SWIFT: Object to the form of the
15 question.

16 BY THE WITNESS:

17 A. I was not aware, no, I'm not.

18 BY MR. MOUGEY:

19 Q. In 2013 you're aware that Walgreens had
20 more than 7,000 stores across the U.S., retail
21 pharmacies, correct?

22 A. I don't -- I don't know for sure.

23 Q. Thousands and thousands of retail
24 pharmacies, correct?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. It could be, yes.

4 BY MR. MOUGEY:

5 Q. You don't even know how many pharmacies
6 that Walgreens was distributing to at that point in
7 time?

8 A. I don't know if we had 7,000, 7,500,
9 8,000. But, yes, I agree --

10 Q. But that's not what I asked you.

11 A. -- it was thousands, yes.

12 Q. It said thousands and thousands.

13 A. Yes.

14 Q. Correct?

15 A. Yes.

16 Q. I didn't say 500. I didn't say 2,500.
17 I said thousands and thousands, right?

18 A. Yes.

19 Q. Okay. And you're comfortable that there
20 were thousands and thousands of Walgreens retail
21 pharmacies that Walgreens was distributing
22 Schedule II and Schedule III narcotics for,
23 correct?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Can you repeat the question.

3 BY MR. MOUGEY:

4 Q. Walgreens was responsible for
5 distributing Schedule II and Schedule III opiates
6 to thousands and thousands of its own retail
7 pharmacies, correct?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Walgreens was distributing controlled
11 substances, C-IIs and C-IIIs, to our pharmacies,
12 yes.

13 BY MR. MOUGEY:

14 Q. And there were how many people assigned
15 at Walgreens to take on this important task when
16 you got there in the beginning of '13 to identify
17 suspicious orders, report them to the DEA and
18 perform due diligence on those orders?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. I don't know.

22 BY MR. MOUGEY:

23 Q. How many people were in your department?

24 A. When I first started?

1 Q. Yes, ma'am.

2 A. Two and myself, Tasha and Steven Mills.

3 Q. Three people. And then within a matter
4 of months, how much had that department had grown
5 to?

6 A. I think we maybe had five more people.
7 Five.

8 Q. So, Walgreens had assigned seven people
9 to take on this multi-billion dollar diversion
10 problem in Schedule II and Schedule III narcotics
11 in its thousands and thousands of retail
12 pharmacies, correct?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. No, we -- I don't know what happened
16 prior to when I started. So, I can't say that, no.

17 BY MR. MOUGEY:

18 Q. When you got there in 2013, there at the
19 peak was seven people in prescription and
20 Pharmaceutical Integrity that were responsible for
21 identifying suspicious orders, reporting them to
22 the DEA and performing due diligence to combat this
23 multi-billion dollar diversion problem, correct?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. As far as I knew, Rx Integrity was
3 started and, yes, there were roughly seven people
4 in the beginning of 2013 that were assigned to
5 manage our CSO KPI tool and manage reporting of
6 suspicious orders, yes.

7 BY MR. MOUGEY:

8 Q. And that CSO KPI tool was designed to
9 identify suspicious orders, correct?

10 A. Yes.

11 Q. Report them as required to the DEA,
12 correct?

13 A. Yes.

14 Q. And identify what orders needed to
15 undergo due diligence, correct?

16 A. Yes.

17 Q. And Walgreens had seven people assigned
18 to that process, correct?

19 A. As far as to my knowledge, yes, at that
20 time.

21 Q. Did you see other people coming in and
22 out that were providing all of these resources or
23 was it pretty much just the seven of you?

24 A. To my knowledge, it was -- it was my

1 group.

2 Q. Wouldn't you think you would know? I
3 mean, after all these years, you would know if
4 there were more people, right?

5 A. I don't know.

6 Q. Let's go to the next sentence. It says,
7 "One recent example of this growing diversion
8 problem is the controlled substance oxycodone."

9 You know what oxycodone is, correct?

10 A. Yes.

11 Q. And you have an understanding that
12 oxycodone was one of the most abused prescription
13 opiates when you started at Walgreens in 2013?

14 A. Yes. I think it was one of the
15 medications or controlled substances that was
16 abused.

17 Q. Not one of. One of the highest, one of
18 the most abused Schedule II prescription opiate,
19 correct?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. I don't know that to be a fact.

23 BY MR. MOUGEY:

24 Q. You don't know that oxycodone in the

1 beginning of 2013 or at any time in 2013 that
2 oxycodone was one of the most abused Schedule II
3 prescription opiates?

4 A. I know that it was one of the most
5 abused, yes.

6 Q. The sentence goes on, "Oxycodone,
7 Percocet, Percodan. OxyContin has become the
8 nation's number one prescribed narcotic medication
9 for treating chronic and severe" -- "chronic severe
10 and moderate pain."

11 Did I read that correctly?

12 A. Yes.

13 Q. "A single 40 gram" -- "40 milligram
14 OxyContin tablet legally selling for about \$4 is
15 worth about \$40 on the illicit market."

16 Correct?

17 A. That's what it says.

18 Q. You didn't have any understanding when
19 you began in '13 what OxyContin was selling on the
20 illicit market for?

21 A. No.

22 Q. Wouldn't that have been an important
23 fact when you were looking for red flags and
24 suspicious orders what the illicit market is

1 bringing for pills that sold for \$4?

2 A. I know that that OxyContin could be sold
3 illicitly and I know that someone could purchase
4 it. I did not have an understanding that it was
5 sold for \$40, no.

6 Q. Wouldn't that have been an important
7 fact that it could be sold for hundreds of percent
8 higher than what the -- what the cost at the
9 pharmacy was?

10 A. I knew that it was being sold on the
11 illicit market for more than what it was valued at,
12 yes.

13 Q. Sure. But not \$5 more, not \$6 more.
14 Roughly a thousand percent more, correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't know that to be a fact.

18 BY MR. MOUGEY:

19 Q. Did you ever ask anyone? Did anybody
20 ever tell you what the demand in the illicit market
21 was for OxyContin?

22 A. I may have heard, but I can't
23 specifically relate to any one person.

24 Q. You can't point to any point in time

1 where anyone from Walgreens training has provided
2 information to you about the multiple that the
3 illicit market was bringing for OxyContin?

4 MS. SWIFT: Object.

5 BY THE WITNESS:

6 A. In training, no.

7 BY MR. MOUGEY:

8 Q. You said your training was ongoing. It
9 started Day One and it continued to today.

10 You can't sit here today and tell this
11 jury and tell this Court that you can point to one
12 single time that anyone from Walgreens has pointed
13 to how many percent higher the illicit market is
14 bringing for OxyContin?

15 A. I was aware that OxyContin could be sold
16 in the illicit market for more than what it was
17 valued at, yes. In our group we were aware of
18 that.

19 Q. But not how much more?

20 A. Exactly how much more, no, not
21 specifically.

22 Q. I didn't say exactly.

23 A. Not 100 times more.

24 MS. SWIFT: Let her finish her answer.

1 BY THE WITNESS:

2 A. I don't -- I don't know. I knew it was
3 more.

4 BY MR. MOUGEY:

5 Q. That's it. You don't know if it's
6 50 cents more, a quarter more, a nickel more or a
7 thousand percent more? You don't know. It's just
8 more.

9 A. I knew it was more than a nickel more.
10 I knew it was a higher amount.

11 Q. It goes on.

12 "As of February 2002, OxyContin has been
13 involved in 464 deaths from prescription drug abuse
14 as reported by DEA on the basis of medical
15 examiners' autopsy findings for 2000 and 2001 from
16 32 states."

17 Do you have any understanding from the
18 point that the GAO study went to the committee of
19 Congress how much the deaths increased attributable
20 to OxyContin?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. No.

24 BY MR. MOUGEY:

1 Q. Did anybody when you started at
2 Walgreens, at any point in time from your initial
3 training through your ongoing training, describe to
4 you about how many people were dying every year
5 from OxyContin overdoses?

6 A. I think, as I mentioned prior, I had
7 seen things in the news, online, maps related to
8 that and in certain areas where people were dying
9 from OxyContin or oxycodone or opioid overdoses,
10 yes.

11 Q. But you can't point to any specific time
12 at Walgreens that anyone explained to you how many
13 people were dying every year and what the increase
14 was year after year attributable to OxyContin?

15 A. I think that was ongoing since I started
16 in 2013.

17 Q. So, the answer to my question is, "Yes,
18 someone told me," or, "No, I saw it online and I
19 saw it in the media but I never saw it at
20 Walgreens." Which one is it?

21 A. Yes, we --

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. We discussed it in our group. Did

1 someone tell me? No. I probably saw it in
2 reports, yes.

3 BY MR. MOUGEY:

4 Q. When you say "reports," you're talking
5 about news media?

6 A. Primarily or documents citing studies,
7 yes.

8 Q. Wouldn't it be important to know year
9 after year what the OxyContin deaths were
10 increasing when you were looking through all of the
11 suspicious orders to determine what was illicit
12 drug use and what wasn't? Wouldn't that have been
13 important to know?

14 A. I think in the scope of my job, I
15 understood that people were dying from oxycodone
16 overdoses; and while reviewing the orders, I was
17 doing my due diligence and making sure that the
18 pharmacists were filling prescriptions legitimately
19 and using their corresponding responsibility, yes.

20 Q. Right. But you can't point us to any
21 point in time where that due diligence was
22 conducted other than calling the pharmacy and
23 putting them in some e-mails, correct?

24 MS. SWIFT: Objection; mischaracterizes the

1 testimony.

2 BY THE WITNESS:

3 A. No. I did have documentation in e-mails
4 and in our CSO KPI tool and we have documentation
5 today and you can pull notes and see the
6 pharmacists' responses as well as our responses.

7 BY MR. MOUGEY:

8 Q. Do you have an understanding of the
9 reason why that system was implemented at Walgreens
10 in mid-2013 is because of a settlement agreement it
11 reached with the regulators?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. No.

15 BY MR. MOUGEY:

16 Q. You have no -- no one has ever told you
17 that the reason why Pharmaceutical Integrity was
18 created was because of the investigation by the
19 regulators into Walgreens' distribution and
20 dispensing practices?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. No.

24 BY MR. MOUGEY:

1 Q. I hand you what will be marked as
2 Exhibit Daugherty 9 -- 10. I'm sorry.

3 Can you go back to Exhibit 2.

4 A. Which is?

5 Q. The "Follow-Up Review of the Drug
6 Enforcement Administration's Efforts to Control the
7 Diversion."

8 A. Okay.

9 Q. You can see the date of this document is
10 July 2006, and this is Daugherty 2, correct?

11 A. Yeah, I see that.

12 Q. So, this is approximately five years
13 after the first subcommittee on the ongoing
14 investigation into OxyContin I showed you, correct?

15 A. Yes.

16 Q. And you see again in the upper left-hand
17 corner, this is the U.S. Department of Justice,
18 correct?

19 A. Yes.

20 Q. And the document is titled "Follow-up
21 Review of the Drug Enforcement Administration's
22 Efforts to Control the Diversion of Controlled
23 Pharmaceuticals."

24 Correct?

1 A. Yes.

2 Q. If you just turn to the second page of
3 this document, under "Executive Digest," second
4 paragraph that begins with "Diversion of controlled
5 pharmaceuticals."

6 A. Okay.

7 Q. "Diversion of controlled pharmaceuticals
8 has dramatically increased in recent years, and
9 research on drug usage reflects the growth of the
10 problem. According to a 2005 report from the
11 National Center on Addiction and Substance Abuse,
12 the number of people who admitted abusing
13 controlled prescription drugs increased by
14 94 percent over a ten-year period, from 7.8 million
15 in '92 to 15.1 million in 2003."

16 Do you see that?

17 A. Yes.

18 Q. Did I read that correctly?

19 A. Yes.

20 Q. As part of your seven years and your
21 pharmacy Doctorate, you took statistics classes,
22 correct?

23 A. Not that I recall.

24 Q. You didn't take any math classes,

1 statistics classes?

2 A. I took math classes, yes.

3 Q. You understand what linear regression
4 is?

5 A. Yes.

6 Q. And how do you understand what linear
7 regression is?

8 A. I understand at a very high level what
9 linear regression is.

10 Q. What's your understanding of what linear
11 regression is?

12 A. I just understand the graph and how it
13 basically looks if you were to ask me to look at a
14 graph.

15 Q. Do you understand what the definition of
16 linear regression is?

17 A. I don't have a good understanding of
18 linear regression.

19 Q. Linear regression is what Walgreens is
20 using today to identify suspicious orders, correct?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. I understand that our system is based
24 off a mathematical calculation, yes.

1 BY MR. MOUGEY:

2 Q. You understand that mathematical
3 calculation is based on a linear regression model?

4 A. Yes.

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I believe it includes linear regression
8 model.

9 BY MR. MOUGEY:

10 Q. And my question was a little inartful.
11 I said "today."

12 You understand that during your tenure
13 when Walgreens was still distributing Schedule II
14 and Schedule III, that one of the tools used to
15 measure or identify suspicious orders was a model
16 based on linear regression?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I understand our tool today is based off
20 of that linear regression.

21 BY MR. MOUGEY:

22 Q. But you're not distributing anymore
23 after 2014, correct?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Not that I know of.

3 BY MR. MOUGEY:

4 Q. You're not even -- I mean all these
5 years in Pharmaceutical Integrity, you don't even
6 know whether Walgreens is distributing Schedule II
7 and Schedule III narcotics?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. I'm not aware of. No, I don't think we
11 are.

12 BY MR. MOUGEY:

13 Q. And the fact that Walgreens is using a
14 linear regression model, sitting here today, you
15 can't tell the jury what linear regression is just
16 even from a high level?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. The mathematical calculation was
20 developed by someone who had expertise in that
21 area, and they had developed it to identify stores
22 with orders of unusual quantity and size.

23 BY MR. MOUGEY:

24 Q. Yes, ma'am. And I appreciate that, but

1 the question I asked you was, do you have an
2 understanding, even at a 30,000 foot view, of what
3 linear regression is?

4 A. I don't have a great understanding of
5 it, no.

6 Q. Not a great. 30,000. Can you tell the
7 jury today what linear regression is?

8 A. I don't have a good understanding of --

9 Q. Any understanding.

10 A. -- of linear regression.

11 Q. Can you tell us any understanding of
12 what linear regression is?

13 A. I can't today.

14 Q. So, we've just gone through five, six
15 years of Congressional subcommittee reports, GAO
16 studies of increasing deaths, increasing diversion
17 problems, and Walgreens model is based on linear
18 regression, and no one from Walgreens ever trained
19 you even enough for you to articulate what a
20 definition of a linear regression is?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. I don't believe that was my job. My job
24 was to identify the flagged orders and report the

1 suspicious orders and work with our pharmacists and
2 our stores.

3 BY MR. MOUGEY:

4 Q. And the linear -- in order -- I'm sorry.

5 The tool used to identify suspicious
6 orders, one of the tools, one of the primary tools
7 is linear regression, correct?

8 MS. SWIFT: Object to the form; foundation.

9 BY THE WITNESS:

10 A. The tool did use linear regression, yes,
11 in identifying flagged orders.

12 BY MR. MOUGEY:

13 Q. And sitting here today you can't
14 articulate, just even a 30,000 foot view, Wikipedia
15 definition of what linear regression is?

16 A. I don't have a good understanding of
17 linear regression.

18 Q. But you do understand in this report
19 dated July 2006 with the stamp of the Department of
20 Justice that the number of people who admitted
21 abusing controlled prescription drugs had jumped
22 almost 100 percent by 2003.

23 Do you see that?

24 A. I see that.

1 Q. When you began your tenure at Walgreens
2 in 2013, had anyone introduced you or described to
3 you the sense of urgency based on the number of
4 deaths across America attributable to Schedule II
5 and Schedule III?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. Can you repeat the question.

9 BY MR. MOUGEY:

10 Q. When you began your training at
11 Walgreens in 2013 throughout the course of that
12 year, did anybody explain to you the increasing
13 year-to-year amount of deaths attributable to
14 Schedule II and Schedule III narcotics?

15 A. I think I saw that in documents over the
16 course of my training, yes.

17 Q. Did anyone explain to you the
18 year-to-year increasing trends of people who had
19 used prescription opiates, Schedule II and
20 Schedule III, for the first time?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. Can you repeat the question. At
24 Walgreens?

1 BY MR. MOUGEY:

2 Q. Yes.

3 A. Did anyone --

4 Q. That's your employer, right?

5 A. Yes.

6 Q. Did anybody explain to you year over
7 year what the increasing trends were of people who
8 had taken prescription opiates, Schedule II and
9 Schedule III, over time?

10 A. Not that I recall.

11 MS. SWIFT: Object to the form.

12 BY MR. MOUGEY:

13 Q. Didn't you use in part of your job at
14 Walgreens trends over periods of times from stores
15 when determining whether stores met certain
16 thresholds?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. Not that I recall. I don't understand
20 your question.

21 BY MR. MOUGEY:

22 Q. Trends. Do you understand what a trend
23 is?

24 A. Yes.

1 Q. What's a trend?

2 A. Can you tell me what you're asking me,
3 because I understand what a trend is.

4 Q. Isn't a trend, isn't it a term of art
5 used within Prescription Integrity to identify
6 potential suspicious orders?

7 A. Can you be more specific and give me an
8 example.

9 Q. I'm asking you. Do you not recall any
10 time in Prescription -- I'm sorry -- Pharmaceutical
11 Integrity group you all used trends of
12 prescriptions for Schedule II and Schedule III
13 narcotics when identifying suspicious orders?

14 MS. SWIFT: Objection; vague.

15 BY THE WITNESS:

16 A. We identified suspicious orders based on
17 the orders that were flagged and we considered each
18 order before we determined whether it was
19 considered suspicious. So, I'm not sure what
20 you're asking. I don't understand your question.

21 BY MR. MOUGEY:

22 Q. That paragraph continues, "This rate of
23 increase was seven times faster than the increase
24 in U.S. population for that same time period."

1 What does that tell you, the increase in
2 first-time users for Schedule II and Schedule III
3 in comparison to population, what does that tell
4 you, if anything, Ms. Daugherty?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. This particular sentence, if it's
8 accurate, is saying that there were 7.8 million in
9 1992 and then 15 million roughly in -- to
10 15 million in 2003.

11 BY MR. MOUGEY:

12 Q. And what does that --

13 A. Which is --

14 Q. In comparison --

15 A. -- almost double.

16 Q. In comparison to the U.S. population,
17 seven times faster, correct, the increase in U.S.
18 population?

19 MS. SWIFT: Object to the form.

20 BY MR. MOUGEY:

21 Q. It tells you it's a growing problem?

22 A. It says it's a growing problem from
23 7.8 million in 1992 to 15.1 million in 2003.

24 Q. So, when you started at Walgreens in the

1 beginning of 2013, did anybody say this epidemic is
2 growing year to year exponentially and it has not
3 slowed down in over a decade?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I don't recall if someone said that to
7 me in that detail.

8 BY MR. MOUGEY:

9 Q. Anything generally in that regard?

10 A. I don't recall. It's possible. I was
11 basically made aware of these kinds of statistics
12 through, again, online studies, documentation,
13 reports, maps.

14 Q. I'm going to hand you what's marked as
15 Daugherty 11 -- 10. Thanks.

16 (WHEREUPON, a certain document was
17 marked as Walgreens-Daugherty
18 Deposition Exhibit No. 10: 9/27/06
19 letter from US DOJ DEA;
20 MCKMDL00478906 - 00478909.)

21 BY MR. MOUGEY:

22 Q. Do you see the U.S. Department of
23 Justice with a date of September 27, 2006, correct?

24 A. Yes.

1 Q. And do you see the very first line of
2 this letter from the U.S. Department of Justice,
3 Drug Enforcement Agency, that "This letter is being
4 sent to every commercial entity in the
5 United States registered with the Drug Enforcement
6 Administration (DEA) to distribute controlled
7 substances."

8 Do you see that?

9 A. Yes.

10 Q. And that's Walgreens, right?

11 MS. SWIFT: Object to the form.

12 BY MR. MOUGEY:

13 Q. Walgreens is a distributor, right?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't know if -- I assume Walgreens
17 was a distributor in 2006. I don't have knowledge
18 of that since I wasn't involved until 2013 did I --
19 in the Rx Integrity group.

20 BY MR. MOUGEY:

21 Q. The next sentence says, "The purpose of
22 this letter is to reiterate the responsibilities of
23 controlled substance distributors in view of the
24 prescription drug abuse problem our nation

1 currently faces."

2 Do you see that?

3 A. Yes.

4 Q. And this is six, seven years before you
5 started, right?

6 A. Yes.

7 Q. Have you ever seen this letter?

8 A. I may have seen it during deposition,
9 but I honestly can't remember.

10 Q. In another deposition?

11 A. Deposition prep. Sorry. I don't know
12 if I saw this letter.

13 Q. Outside of deposition prep, have you --
14 do you recall seeing this letter during your tenure
15 at Walgreens?

16 A. No.

17 Q. The next paragraph goes on, "As each of
18 you is undoubtedly aware, the abuse (non-medical
19 use) of controlled prescription drugs is a serious
20 and growing health problem in this country."

21 Do you agree that that continued up
22 until the point when you started with Walgreens in
23 2013?

24 MS. SWIFT: Object to the form.

1 BY MR. MOUGEY:

2 Q. Or continued with Walgreens in 2013?

3 A. I don't know.

4 Q. You don't know if in 2013 when you began
5 that the abuse or non-medical use of controlled
6 prescription drugs continued to be a serious and
7 growing health problem in this country?

8 A. I know when I started in January of 2013
9 that the abuse of controlled prescription drugs was
10 becoming a problem in the country. That's what I
11 know.

12 Q. It was a new problem like that document
13 we saw earlier, right?

14 A. I don't know that it was new. I don't
15 know how --

16 Q. You said it was becoming --

17 A. -- if it was growing. I don't -- I
18 don't have any context before 2013, so I don't
19 know.

20 Q. That's perfect. You have no context
21 before January 2013 when you started?

22 A. Other than what I saw in the news, which
23 I mentioned earlier.

24 Q. And all of this ongoing training at

1 Walgreens, you don't have any context for what had
2 happened in years before with the growing and
3 continuing serious health problem in this country,
4 no context that you can base off of when you
5 started in January of '13?

6 MS. SWIFT: Objection; mischaracterizes the
7 testimony.

8 BY THE WITNESS:

9 A. As part of my job was to manage the
10 controlled substance order monitoring process when
11 I started and manage the team and build the team.

12 So, I don't have knowledge of this
13 letter or what was happening in specifics at
14 Walgreens prior to that.

15 BY MR. MOUGEY:

16 Q. The question I asked you was a little
17 different. You mentioned context, and what I asked
18 you was that when you began in '13, you didn't have
19 any context for what had happened in years before
20 with the growing and continuing serious health
21 problem in this country attributable to Schedule II
22 and Schedule III opiates, correct?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. I knew that there was a problem in the
2 country. I don't know when it started, and I don't
3 know how long it had been going on.

4 BY MR. MOUGEY:

5 Q. But you knew when you started in the
6 beginning of 2013 that it was becoming a problem?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. I knew at that point because that was
10 what I was made aware of when I started my job
11 because prior to that, it wasn't my job to know
12 about the growing health problem related to drug
13 abuse. My job was different.

14 BY MR. MOUGEY:

15 Q. Now it was your job in 2013. Deaths are
16 increasing every year. Prescription abuse is
17 increasing every year.

18 Wouldn't it have been important for you,
19 as the manager for the Midwest region overseeing
20 and identifying suspicious orders for more than a
21 thousand stores, for you to have some context of
22 the increasing problem?

23 MS. SWIFT: Objection; mischaracterizes the
24 testimony.

1 BY THE WITNESS:

2 A. I was aware that there was an increasing
3 problem with drug abuse in the country when I
4 started my job as I was being trained.

5 BY MR. MOUGEY:

6 Q. Increasing, kind of like your testimony
7 earlier about OxyContin. You didn't know if it was
8 being sold for a dollar more a pill or a thousand
9 more percent a pill.

10 Here you knew that it was a growing
11 problem, just didn't really know how big of a
12 problem it was. Is that fair?

13 A. I didn't --

14 MS. SWIFT: Object to form.

15 BY THE WITNESS:

16 A. I didn't know the actual numbers. I
17 knew that it was a growing problem in the country,
18 yes.

19 BY MR. MOUGEY:

20 Q. But context, whether it was a growing
21 problem of 1% or 2% or year after year it had
22 doubled, you don't really know because that wasn't
23 part of your job?

24 A. I know it was a serious problem.

1 Q. The next paragraph, "The CSA," and you
2 understand what that stands for?

3 A. I mean, it says Controlled Substance
4 Act.

5 Q. Yes, ma'am.

6 A. Yeah.

7 Q. "The CSA," Controlled Substance Act,
8 "was designed by Congress to combat diversion by
9 providing for a closed system of drug
10 distribution."

11 Do you know what "closed system" means?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. In this document I'm not sure I
15 completely understand that.

16 BY MR. MOUGEY:

17 Q. How about outside of this document?
18 Just generally. Do you understand what a closed
19 system is? In all this training you've gotten at
20 Walgreens, what is a closed system referencing?

21 A. A closed system is --

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. Honestly, I don't know.

1 BY MR. MOUGEY:

2 Q. You don't know. Sentence continues, "In
3 which all legitimate handlers of controlled
4 substances must obtain a DEA registration and, as a
5 condition of maintaining such registration, must
6 take reasonable steps to insure that their
7 registration is not being utilized as a source of
8 diversion."

9 Did I read that correctly?

10 A. Yes.

11 Q. It goes on, "Distributors are, of
12 course, one of the key components of the
13 distribution chain."

14 Do you agree with that sentence from the
15 DEA that distributors are one of the key components
16 of the distribution chain?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I can't speculate. I don't know.

20 BY MR. MOUGEY:

21 Q. Do you have any idea what the
22 distributor's role is in the closed distribution
23 system?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I don't know.

3 BY MR. MOUGEY:

4 Q. Do you have any idea what -- why the
5 distributors are key components of the distribution
6 system?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. No, I can't speculate.

10 BY MR. MOUGEY:

11 Q. The paragraph goes on, "If the closed
12 system is to function properly as Congress
13 envisioned, distributors must be vigilant in
14 deciding whether a prospective customer can be
15 trusted to deliver controlled substances only for
16 lawful purposes."

17 Did I read that accurately?

18 A. Yes.

19 Q. It goes on, "This responsibility is
20 critical."

21 Do you agree that Walgreens as a
22 distributor has a responsibility to be vigilant in
23 deciding whether a prospective customer can be
24 treated to deliver controlled substances only for

1 lawful purposes?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. The -- I think I would defer to
5 interpretation of the law and what our attorney
6 would advise as far as what that is. I can't -- I
7 can't assume to know what that is, what that means
8 exactly.

9 BY MR. MOUGEY:

10 Q. You can't assume or you don't know --

11 A. I don't --

12 Q. -- whether or not Walgreens -- no one
13 has ever told you that Walgreens' role was
14 critical?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't know in this context of this
18 letter.

19 BY MR. MOUGEY:

20 Q. And outside the context, has anyone at
21 Walgreens ever told you that your role, its role as
22 a distributor was critical?

23 MS. SWIFT: Your role, its role, whose role
24 are you talking about?

1 BY MR. MOUGEY:

2 Q. No one from Walgreens ever told you that
3 your role in Pharmaceutical Integrity as part of
4 Walgreens was critical in the distribution system?

5 A. At Walgreens I was made aware that my
6 role was important, and I needed to make sure that
7 we were monitoring for flagged orders and reporting
8 suspicious orders. That was the extent of my role.

9 Q. The last sentence of that paragraph,
10 "Congress has expressly declared that the illegal
11 distribution of controlled substances has a
12 substantial and detrimental effect on the health
13 and general welfare of the American people."

14 Do you agree with that sentence?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't know. This is just a letter
18 from 2006.

19 BY MR. MOUGEY:

20 Q. It's just a letter?

21 A. I'm not sure. I don't know.

22 Q. That's it. And that's the message from
23 Walgreens?

24 A. I have not seen this letter.

1 Q. "This is just a letter from the DEA. I
2 don't know." Right?

3 A. Well, I have not seen this letter
4 before.

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I don't know.

8 BY MR. MOUGEY:

9 Q. No one has ever shown you this letter,
10 correct?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Not until I saw it possibly in
14 deposition prep, no.

15 BY MR. MOUGEY:

16 Q. You might not have been in deposition
17 prep if somebody would have shown it to you
18 earlier, right?

19 MS. SWIFT: Objection. You're harassing the
20 witness. Do you have a question?

21 BY MR. MOUGEY:

22 Q. Who at Walgreens would have been
23 responsible, in your understanding from when you
24 started, of taking this letter and making sure that

1 it got in the right hands of the right people?

2 MS. SWIFT: Objection; foundation.

3 BY THE WITNESS:

4 A. Are you asking me in 2006?

5 BY MR. MOUGEY:

6 Q. I'm asking you from your understanding
7 when you were at Walgreens -- and you were at
8 Walgreens in 2006, right?

9 A. I was at Walgreens Health Initiatives,
10 our PBM division, yes.

11 Q. Yes, ma'am. And that's Walgreens,
12 right? That's under the umbrella of companies,
13 right?

14 A. Yes, it's part of Walgreens.

15 Q. And the PBMs were also distributing --
16 I'm sorry -- were also responsible for Schedule II
17 and Schedule III narcotics, correct?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. Not in distribution that I'm aware of.

21 BY MR. MOUGEY:

22 Q. Not in distribution, but part of the
23 rubric of the PBMs included Schedule II and
24 Schedule III narcotics, correct?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. I don't know what you mean by that.

4 BY MR. MOUGEY:

5 Q. So, in 2006 when you're at Walgreens --
6 you've been at Walgreens for almost 20 years,
7 right?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Yes.

11 BY MR. MOUGEY:

12 Q. Who do you think would have been
13 responsible at Walgreens when a letter like this
14 comes in talking about Walgreens' responsibility
15 and that it's critical, who at Walgreens would have
16 been responsible for distributing or disseminating
17 this to the right people?

18 MS. SWIFT: Objection; foundation.

19 BY THE WITNESS:

20 A. In 2006 I would not know. I do not
21 know.

22 MR. MOUGEY: I will hand you Daugherty 11.

23 (WHEREUPON, a certain document was
24 marked as Walgreens-Daugherty

1 Deposition Exhibit No. 11:
2 12/27/07 letter from US DOJ DEA to
3 McKesson Corporation;
4 MCKMDL00478910 - 00478911.)

5 BY MR. MOUGEY:

6 Q. Same letterhead as Daugherty 10,
7 correct?

8 A. Yes.

9 Q. U.S. Department of Justice, correct?

10 A. Yes.

11 Q. Drug Enforcement Administration below
12 that, correct?

13 A. Yes.

14 Q. If you compare dates, about 14 months
15 later the next letter comes out, correct?

16 A. Yes.

17 Q. "The purpose of this letter is to
18 reiterate the responsibilities of controlled
19 substance manufacturers and distributors to inform
20 DEA of suspicious orders in accordance with 21 CFR
21 1301.74(b)."

22 Do you see that?

23 A. Yes.

24 Q. Do you recall ever seeing this letter

1 prior to deposition prep?

2 A. No.

3 Q. Take a second and look at the contents
4 of this letter and its similarity to the last
5 letter. Very close, isn't it?

6 MS. SWIFT: Are you asking her to read the
7 whole letter?

8 MR. MOUGEY: Enough to answer the question.

9 MS. SWIFT: Read whatever part of it you need.

10 MR. MOUGEY: Thank you.

11 BY THE WITNESS:

12 A. I would say that this letter is much
13 shorter than the first letter. So, not similar.
14 There is much more detail in the first letter.

15 BY MR. MOUGEY:

16 Q. Let's go through the Daugherty 11, then.
17 Second paragraph.

18 "In addition to, and not in lieu of, the
19 general requirement under 21 USC 823, manufacturers
20 and distributors maintain effective controls
21 against diversion."

22 Do you see that?

23 A. Yeah, yes.

24 Q. "DEA regulations require all

1 manufacturers and distributors to report suspicious
2 orders of controlled substances."

3 Do you follow me?

4 A. Yes.

5 Q. "Title 21 CFR 1301.74(b), specifically
6 requires that a registrant 'design and operate a
7 system to disclose to the registrant suspicious
8 orders of controlled substances.' The regulation
9 clearly indicates that it is the sole
10 responsibility of the registrant to design and
11 operate such a system."

12 Do you see that?

13 A. Yes.

14 Q. So, as of 2007 it's crystal clear that
15 the DEA is requiring Walgreens as a distributor to
16 have designed and implemented a system intended to
17 identify and report suspicious orders, correct?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I see that this is what this letter
21 says, that they're requiring a registrant to design
22 and operate a system. I also see that it's
23 addressed to McKesson.

24 BY MR. MOUGEY:

1 Q. Yes, because your company can't find
2 this letter. It hasn't been produced in
3 production.

4 Do you have -- doesn't that seem a
5 little odd to you that letters from the DEA
6 elaborating on industry standards and what does and
7 doesn't need to be done, that your company can't
8 find it?

9 A. I don't know that that's true.

10 Q. Don't you find that a little weird, that
11 we have to use --

12 MS. SWIFT: Let her answer your question.

13 BY MR. MOUGEY:

14 Q. Were you finished?

15 A. Um-hmm.

16 Q. Don't you find -- I thought you were.

17 Do you -- do you find it a little odd
18 maybe that letters from the DEA elaborating on
19 what's required and what's not required and the
20 critical responsibility, that nobody at Walgreens
21 can find that letter?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. I don't know.

1 BY MR. MOUGEY:

2 Q. Do you think maybe this didn't go to
3 Walgreens so it didn't know about the systems that
4 the DEA was requiring?

5 A. I don't know if Walgreens received this
6 letter.

7 Q. Did anyone from Walgreens ever elaborate
8 on the contents or similar to the contents of this
9 letter during your training?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I have no knowledge of this letter
13 during my training.

14 BY MR. MOUGEY:

15 Q. Or the contents of this letter, similar
16 to the contents of this letter.

17 Do you have any knowledge about anything
18 similar to the contents of this letter during your
19 training at Walgreens?

20 MS. SWIFT: If you need to read the entire
21 letter to determine the answer to that question,
22 you should do that.

23 BY THE WITNESS:

24 A. I think I might need to read it.

1 So, yes.

2 BY MR. MOUGEY:

3 Q. So, let's go to the last paragraph.

4 Let's talk about patterns. Last paragraph on the
5 first page begins with, "The regulation
6 specifically states that suspicious orders include
7 orders of unusual size, orders deviating
8 substantially from a normal pattern and orders of
9 an unusual frequency."

10 Do you see that first sentence?

11 A. Yes.

12 Q. The DEA goes on in the sentence after
13 next, "For example, if an order deviates
14 substantially from a normal pattern, the size of
15 the order does not matter and the order should be
16 reported as suspicious."

17 Do you see that?

18 A. Is that lower down somewhere?

19 Q. It's the sentence after the one I just
20 read. Begins with, "For example." It's
21 highlighted on the screen in front of you.

22 A. Yes.

23 Q. Okay. Do you see that?

24 A. Yes.

1 Q. So, the DEA believes that patterns are
2 important when determining whether an order is
3 suspicious, correct?

4 MS. SWIFT: Object to the form. You're asking
5 her what the DEA believes?

6 BY MR. MOUGEY:

7 Q. The DEA as elaborated in this letter.

8 A. That's what the letter. The letter
9 says, "If the order deviates substantially from the
10 normal pattern."

11 Q. And you don't recall in any point in
12 time in your training that patterns should be
13 looked at to identify potential suspicious orders,
14 correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. My understanding is if a store has never
18 ordered a product before and they are now ordering,
19 for example, a Suboxone, I will make sure that I
20 understand the extent of why they are ordering the
21 Suboxone films that they need. Usually it's as a
22 result of now they have legitimate prescriptions
23 coming from a Suboxone clinic.

24 So, if that's what you mean by a normal

1 pattern where they never dispensed it before or
2 hadn't seen any volume of it before and now they
3 are dispensing it, yeah.

4 BY MR. MOUGEY:

5 Q. Can you think of any other patterns that
6 might be important?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. Not off the top of my head right now.

10 BY MR. MOUGEY:

11 Q. So, the only pattern you can think of
12 after six years in Pharmaceutical Integrity
13 responsible for identifying suspicious orders is
14 when a store has never ordered Suboxone and now is
15 ordering it. That's the only pattern that you can
16 come up with?

17 A. Off the top of my head right now, yes.

18 Q. Let's go to the first sentence on the
19 next page, begins with "Registrants."

20 "Registrants that rely on rigid formulas
21 to define whether an order is suspicious may be
22 failing to detect suspicious orders."

23 Do you have an understanding of whether
24 or not Walgreens was using a rigid formula to

1 detect suspicious orders at any point in time?

2 MS. SWIFT: Object to the form, foundation.

3 BY THE WITNESS:

4 A. I don't know what "rigid formulas"
5 means. I don't know what that means in this
6 letter.

7 BY MR. MOUGEY:

8 Q. Well, let's just maybe come up with an
9 example. So, if an NDC code in the order for a
10 month was averaged over a period of time, say, six
11 months, and then you have an average. You
12 following me?

13 A. Yes.

14 Q. And that was multiplied times 3, the
15 average. So, anything over the average times 3 was
16 flagged as suspicious. Does that sound like a
17 formula to you?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. That's -- I don't know what rigid or how
21 that's defined. That's my question.

22 BY MR. MOUGEY:

23 Q. I didn't use the word "rigid" on
24 purpose --

1 A. Yes.

2 Q. -- so as not to confuse you --

3 A. Yes.

4 Q. -- with the word "rigid." So, let's
5 just use the word "formula."

6 Three times a six-month average for a
7 specific NDC code. Is that a formula?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. I think that could be a formula.

11 BY MR. MOUGEY:

12 Q. And do you think that would be a rigid
13 formula?

14 MS. SWIFT: Object to form.

15 BY THE WITNESS:

16 A. I don't know.

17 BY MR. MOUGEY:

18 Q. You don't know. Do you think that's an
19 appropriate formula to use to identify suspicious
20 orders when reporting them to the DEA?

21 MS. SWIFT: Objection; foundation.

22 BY THE WITNESS:

23 A. I don't know.

24 BY MR. MOUGEY:

1 Q. You wouldn't expect that Walgreens was
2 using formulas like 3 times the average over
3 six-month of an NDC code when reporting suspicious
4 orders to the DEA, would you?

5 MS. SWIFT: Object to the form, foundation.

6 BY THE WITNESS:

7 A. I don't know what kind of formula
8 Walgreens was using in 2007 or --

9 BY MR. MOUGEY:

10 Q. But you certainly wouldn't --

11 A. To report suspicious orders.

12 Q. You certainly wouldn't expect Walgreens
13 to be using a rigid formula after this 2007 letter,
14 correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't know.

18 MS. SWIFT: Foundation.

19 BY MR. MOUGEY:

20 Q. Have you ever talked to Mr. Stahmann
21 about what the formula Walgreens was using during
22 his tenure?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. Before he was working with me?

2 BY MR. MOUGEY:

3 Q. At any point in time.

4 A. Other than our CSO KPI tool that we talk
5 about, yes. But no.

6 Q. No?

7 A. Not other than that, no.

8 Q. I will hand you what I'll mark as
9 Daugherty 12.

10 (WHEREUPON, a certain document was
11 marked as Walgreens-Daugherty
12 Deposition Exhibit No. 12: 8/16/17
13 e-mail with attachment;
14 WAGMDL00183798 - 00208715.)

15 BY MR. MOUGEY:

16 Q. You see Eric Stahmann that e-mailed
17 himself on August 16, 2017, correct?

18 A. Yes.

19 Q. And Mr. Stahmann is one of your
20 colleagues in Pharmaceutical Integrity, correct?

21 A. Yes.

22 Q. And he's been there for quite some time
23 as well, correct?

24 A. Probably several months after I started

1 in 2013, yes.

2 Q. But as of 2017, in August, he had been
3 there about four years, right?

4 A. That sounds right, yes.

5 Q. And you understand that he, like you,
6 had been at Walgreens prior to his tenure in
7 Pharmaceutical Integrity, correct?

8 A. Yes.

9 Q. Do you know what department or what
10 group he was in within Walgreens prior to
11 Pharmaceutical Integrity?

12 A. Our asset protection department.

13 Q. And loss prevention?

14 A. Loss prevention, yes.

15 Q. Okay. And you see here that the subject
16 is "CD orders," right?

17 A. Yes.

18 Q. And the attachments are CDCORP 8-2010,
19 and it's a zip file, correct?

20 A. Yeah, it says zip, yes.

21 Q. Thanks. So, if you'd turn the page to
22 Bates No. 99. It's in the bottom right-hand
23 corner.

24 Do you know what MOBIUS is? To the

1 bottom of the page.

2 A. I have heard the term, but no, I don't.

3 Q. You don't have any understanding at all
4 what it is, whether it's a database or anything?

5 A. Not really, no.

6 Q. Not really or not at all?

7 A. No, I really don't know. I don't know.

8 Q. All right. And in the middle of the
9 page on the right-hand side do you see "Report
10 Title, Suspicious Drug Orders"?

11 A. Yes.

12 Q. Now, if you would turn to two pages in.
13 Let me come back to that.

14 If you would turn to Bates No. 80.

15 A. Okay.

16 Q. And you see "Sales District 277" in the
17 upper left-hand side?

18 A. Yes.

19 Q. "Walgreen Store No.," and 3226, correct?

20 A. Yes.

21 Q. And do you see "DEA No.," and that's --
22 do you have an understanding of what that DEA
23 number is?

24 A. Where is it?

1 Q. The upper part of Bates No. 80, right in
2 the middle of the page, it says, "DEA No.,
3 BW4129842."

4 A. I would assume that it's the DEA number
5 of the store.

6 Q. All right. Of the pharmacy, right?

7 A. The pharmacy, yes.

8 Q. The next has got a store address and
9 it's got 6410 Broadway Avenue, Cleveland, Ohio,
10 correct?

11 A. Yes, 6410 Broadway.

12 Q. And you ultimately were over the eastern
13 region of Walgreens for identifying suspicious
14 orders, correct?

15 A. Yes. At a later date after I had
16 started, yes.

17 Q. When do you recall that that date was?

18 A. I don't remember exactly. Maybe 2015.

19 Q. Okay. So, if you continue on this page,
20 it says on the right-hand side below the kind of
21 title section it says, "Walgreen Item No." and it
22 has an NDC number, correct?

23 A. Yes.

24 Q. And next to that column is

1 "Description," and it has the average order and
2 then it has a star, "DEA factor = Trigger."

3 Do you see that?

4 A. Average order. I see "AVE Order."

5 Q. What do you think AVE stands for, do you
6 know?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. I -- I don't know since I usually use
10 AVG, so I'm not sure.

11 BY MR. MOUGEY:

12 Q. The DEA factor equals trigger. Do you
13 see that?

14 A. Yes.

15 Q. And you have -- why don't you tell me
16 what you see what that is below that,
17 "Oxycodone-APAP 5-325 tab plus 500." What does
18 that mean?

19 A. That's the oxycodone acetaminophen
20 5 milligram 325 strength and that's a 500 count
21 bottle.

22 Q. And below you see 6 and 3.0 and 18,
23 right?

24 A. Yes.

1 Q. So, 6 times 3 is 18. Do you agree with
2 that?

3 A. Yes.

4 Q. And you see under the AVE order, 6; and
5 under the DEA factor, 3; and under the trigger, 18?

6 A. I see the numbers, yes.

7 Q. Have you ever seen this report before or
8 anything similar to it?

9 A. No.

10 Q. Look below. You see the "Date Ordered,"
11 6/29, 7; 6/22, 4; 6/15, 3; 6/08, 5; 6/1, 9.

12 Do you see that, follow me?

13 MS. SWIFT: Objection to the extent it
14 mischaracterizes the document.

15 BY THE WITNESS:

16 A. I follow the numbers, yes.

17 BY MR. MOUGEY:

18 Q. Okay. And you see the "Total Ordered"
19 below, 28.

20 A. I see that, yes.

21 Q. Now, do you have any idea what
22 percentage 18 of 28 is?

23 MS. SWIFT: Object to the form.

24 BY MR. MOUGEY:

1 Q. Is that 155%? Does that look about
2 right?

3 MS. SWIFT: Same objection.

4 BY THE WITNESS:

5 A. What percent 18 out of 28 is? No, I
6 don't think it's 155%.

7 BY MR. MOUGEY:

8 Q. Did I say that backwards?

9 The trigger factor is 18.

10 Do you see that above?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. I see the number 18, yes.

14 BY MR. MOUGEY:

15 Q. And you see below the quantity is 28?

16 A. Yes.

17 Q. And 28 is 155% of 18?

18 MS. SWIFT: Do you want her to do the math in
19 her head or?

20 BY THE WITNESS:

21 A. Okay.

22 BY MR. MOUGEY:

23 Q. I understand.

24 A. I use my phone a lot for math, I'll be

1 honest with you.

2 Q. Although your job --

3 A. Yes.

4 Q. -- with linear regression --

5 A. Yes.

6 Q. -- and looking is a lot of math, isn't
7 it?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. I use my calculator quite a bit, yes. I
11 have three.

12 BY MR. MOUGEY:

13 Q. Well, if you want to get your phone out
14 and do the 28 times --

15 A. No, that's fine.

16 Q. I'm sorry. 28, 155 as compared to 18,
17 does that look about right to you? Let's do it
18 like this.

19 A. Sure.

20 Q. What's half of 18? 9, right?

21 A. Yes.

22 Q. So, you'd agree that 27 would be 150% of
23 18, right?

24 MS. SWIFT: I'm going to object to the

1 on-the-record math. She's testifying under oath.

2 I mean, if you really want her to get her phone
3 out. If you can do it in your head, fine.

4 BY THE WITNESS:

5 A. Yes, I agree.

6 BY MR. MOUGEY:

7 Q. With what?

8 A. It's close, yes.

9 Q. It's close.

10 A. Yes.

11 Q. Do you have any idea whether or not
12 Walgreens for periods of time before your arrival
13 in Pharmaceutical Integrity was using rigid
14 formulas to identify suspicious orders for the DEA?

15 MS. SWIFT: Object to the form, foundation.

16 BY THE WITNESS:

17 A. No.

18 BY MR. MOUGEY:

19 Q. You don't have any idea whether
20 Walgreens was using a DEA factor of 3 to multiply
21 average orders?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. No, I do not.

1 BY MR. MOUGEY:

2 Q. You would agree with me that if
3 Walgreens was using a formula such as 3 times the
4 average order to identify suspicious orders, that
5 that would not comply with the correspondence we
6 just looked at from the DEA?

7 MS. SWIFT: Object to the form, foundation.

8 BY THE WITNESS:

9 A. No.

10 BY MR. MOUGEY:

11 Q. You'd agree with me that it doesn't
12 comply?

13 MS. SWIFT: No. Objection.

14 BY THE WITNESS:

15 A. No. I don't know where -- this letter
16 is law. So, I don't -- I don't really understand
17 if that would comply with the law, no.

18 BY MR. MOUGEY:

19 Q. I'm asking you if the letter from the
20 DEA provides guidance that rigid formulas shouldn't
21 be used and Walgreens was using a DEA factor of 3,
22 that that would not comply with the DEA's guidance,
23 correct?

24 MS. SWIFT: Same objection.

1 BY THE WITNESS:

2 A. I don't know. I can't speculate.

3 BY MR. MOUGEY:

4 Q. And you don't know who would know,
5 right? Are we going to get to somebody at
6 Walgreens that knows something outside of a
7 six-month window?

8 MS. SWIFT: Object to the form of the
9 question.

10 BY MR. MOUGEY:

11 Q. I will hand you what we'll mark as
12 Daugherty 13.

13 (WHEREUPON, a certain document was
14 marked as Walgreens-Daugherty
15 Deposition Exhibit No. 13:
16 Settlement and Memorandum of
17 Agreement; WAGMDL00490963 -
18 00490978; and P-WAG-0001.)

19 BY MR. MOUGEY:

20 Q. Let's walk through this document. If
21 you'll -- the first 13 pages is titled "Settlement
22 and Memorandum of Agreement." The signatory pages
23 are page 11 and 12 and 13.

24 Do you see that?

1 A. Yes.

2 Q. Okay. Now, this -- these are a series
3 of documents, and we got the signatory pages at a
4 different time. So, I'm going to refer you to
5 after page 13, there is an "Addendum: Prospective
6 Compliance," one of three pages, and then the
7 document starts over again.

8 Do you see that?

9 A. Yes.

10 MS. SWIFT: Are you following his questions
11 while you're looking?

12 THE WITNESS: Yes.

13 BY MR. MOUGEY:

14 Q. Page 1 of 13, "Settlement and Memorandum
15 of Agreement."

16 A. Yes.

17 Q. It's titled -- it also has page 1 of 343
18 on the bottom right-hand side. Do you see that?

19 A. No.

20 Q. They're numbered --

21 A. I have 1 of 3, 1 of 13. Do you want me
22 to go after that? Then I have 1 of 3 again.

23 Q. Right. But do you see the number on the
24 bottom right-hand side? Get to the one that starts

1 with 1 of 343.

2 A. Okay.

3 Q. To make it easy, I've just numbered them
4 sequentially 1 out of 343, so when I reference a
5 page you can find it. Okay?

6 A. Yes.

7 Q. And you're there on page 1 of 343 titled
8 "Settlement and Memorandum of Agreement."

9 Do you see that?

10 A. Yes.

11 Q. Now, I know you've only looked at the
12 first few pages, but just based on the first page,
13 do you recall ever seeing this document before?

14 A. I don't recall seeing this page, no.

15 Q. Okay.

16 A. This part of it. No.

17 Q. Let's just go through some of the
18 procedural background so we know what we are
19 looking at.

20 Do you see the paragraphs that are
21 titled 1, 2, 3, 4, 5, 6 and it goes all the way to
22 10 on page 2 of 343? Do you see that?

23 A. Yes.

24 Q. Okay. And paragraph 3 references, "On

1 April 7, 2011, Walgreens entered into a Settlement
2 and Release Agreement and Administrative Memorandum
3 of Agreement with DEA."

4 Do you see that as Appendix A?

5 A. Yes.

6 Q. Okay. 4, "Walgreens' Jupiter
7 distribution center is registered with DEA as a
8 distributor of Schedule II to V controlled
9 substances," and it lists its address in Jupiter,
10 Florida. Are you still following me?

11 A. Yes.

12 Q. And then paragraph 5 references
13 Appendix B that pertains to the Jupiter
14 distribution center, correct?

15 A. Yes.

16 Q. And then 6, 7, 8, 9 and 10 are all
17 pharmacy -- retail pharmacies of Walgreens that are
18 referenced in Exhibits C to C6?

19 A. Yes.

20 Q. Okay. Let's continue to page 2 of 3,
21 "Stipulation and Agreement." Do you have an
22 understanding of what the words "Stipulation and
23 Agreement" means?

24 A. I understand that this is an agreement.

1 Q. Okay. And as you can see below, in the
2 second paragraph, "Walgreens acknowledges that
3 suspicious order reporting for distribution to
4 certain pharmacies did not meet the standards
5 identified by DEA in three letters from DEA's
6 Deputy Assistant Administrator, Office of Diversion
7 Control, sent to every registered manufacturer and
8 distributor, including Walgreens, on September 27,
9 2006, February 7, 2007 and December 27, 2007."

10 Do you follow me?

11 A. Yes.

12 Q. Did anyone, when you began at Walgreens
13 in that first year, tell you that Walgreens had
14 acknowledged that its suspicious order reporting
15 for distribution centers did not meet standards as
16 identified by the DEA?

17 A. Not that I recall, no.

18 Q. Wouldn't -- wouldn't you have recalled
19 that? We have people dying. We have exploding
20 populations using Schedule II and Schedule III
21 narcotics.

22 Wouldn't you recall if somebody said,
23 "Hey, our organization didn't follow and comply
24 with DEA guidelines"? Don't you think you'd

1 remember that?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. I don't know if I would.

5 BY MR. MOUGEY:

6 Q. Wouldn't that be a --

7 A. I don't remember that.

8 Q. You don't know if you'd recall?

9 A. I don't know.

10 Q. Do you know -- did you know in the first

11 half of 2013 whether or not Walgreens paid

12 \$80 million as part of this agreement?

13 A. I think I learned, yeah, at some point

14 when this settlement agreement was signed that

15 there was an \$80 million involvement. Maybe June.

16 I don't recall when this was exactly signed.

17 Q. Maybe June is what your recollection is?

18 Did you look at documents getting -- preparing for

19 today that you had been sent this memorandum of

20 agreement in June of 2013?

21 A. I've seen some of this memorandum of

22 agreement before, yes. Not this part that you're

23 showing me right now.

24 Q. Let me hand you what is marked as

1 Daugherty 14.

2 (WHEREUPON, a certain document was
3 marked as Walgreens-Daugherty
4 Deposition Exhibit No. 14: 6/12/13
5 e-mail string; WAGMDL00575931 -
6 00575944.)

7 BY MR. MOUGEY:

8 Q. Don't close 13. I just want to...

9 Let's just start with the e-mail on top.
10 Do you see that it's from you to the rest of your
11 group?

12 A. It's from me to Tasha is what I see up
13 top and then from Tasha to us. Yes.

14 Q. And you ask, "I can forward this to Ed?"
15 Help me with the pronunciation.

16 A. Svihra.

17 Q. Svihra. What's Ed Svihra do?

18 A. I believe his job was director in asset
19 protection.

20 Q. Why did you ask if you could forward it
21 to Ed?

22 A. Because it was a document, a settlement,
23 and I wanted to make sure I can share that.

24 Q. Where did you find it?

1 A. Tasha had sent it, it looks like.

2 MS. SWIFT: I'm going to object. I just
3 noticed that the third e-mail on the chain is from
4 Patty Zagami, who is a lawyer at Walgreens. I
5 don't know if this is a draft of the settlement
6 agreement or not. But if it is, I'm going to lodge
7 an assertion of privilege over this document and
8 ask that you not ask questions about it. You've
9 already got the --

10 MS. DUNNING: Kate, I am going to represent
11 that the title in the metadata is "Final from USAO
12 website.pdf." You can see that on the screen. So
13 I don't think it's a draft, and you all produced
14 this in your post privileged --

15 MS. SWIFT: Based on that representation, I
16 don't have any reason to think that it's a draft
17 either. But if you don't need ask about this
18 version of it.

19 MR. MOUGEY: I wasn't planning on going
20 through it. What I'm trying to...

21 BY MR. MOUGEY:

22 Q. As of June of 2013, June 12 of 2013, you
23 had the memorandum and agreement on -- the
24 Settlement and Memorandum Agreement, which is the

1 first series of pages of this document in
2 Exhibit 12, correct?

3 A. It appears that I did in an e-mail, yes.

4 Q. Okay. Can we go to the first page of
5 the Settlement and Memorandum Agreement.

6 And Exhibit 13 that was e-mailed to you
7 in June of '13, appears to be the first -- the same
8 draft as what's in Exhibit 12, correct?

9 A. I don't know if it's the same. I
10 haven't done a comparison.

11 Q. It's the same subject matter, right?

12 MS. SWIFT: Do you want her to read both and
13 confirm that, Peter? I mean, if you want her --

14 MR. MOUGEY: That's why I broadened it up to
15 just the same subject matter.

16 BY THE WITNESS:

17 A. It's titled the same, Settlement and
18 Memorandum of Agreement. I can agree to that.

19 BY MR. MOUGEY:

20 Q. Yeah.

21 A. I don't know that -- I can't say that it
22 with 100% certainty that it's the same document
23 unless I do it.

24 Q. That's not what I asked. If you go back

1 to what I asked, which was the same subject matter,
2 if you look at paragraphs 1, 2, 3, 4, 5, 6, and
3 you'll see pretty quick that the reference matter
4 is the same in the document we just went through.

5 A. I would agree that it's similar, yes.

6 Q. Yes. And if you turn the page,
7 paragraphs 7, 8, 9 and 10 are also similar to
8 Exhibit 12?

9 MS. SWIFT: Take your time and compare them to
10 the extent you need to be able to answer the
11 question.

12 BY THE WITNESS:

13 A. Yes.

14 BY MR. MOUGEY:

15 Q. Thank you. Just kind of put that to the
16 side, and we'll stick with Daugherty 12 for a
17 minute. Okay?

18 What I want you to draw your attention
19 on paragraphs 1 through 10 are all the different
20 matters that were open investigations from the DEA
21 into different Walgreens distribution centers and
22 pharmacies.

23 Do you see that?

24 MS. SWIFT: Object to the form, foundation.

1 BY THE WITNESS:

2 A. I don't know what each item
3 specifically --

4 BY MR. MOUGEY:

5 Q. Then we will go through every single
6 one.

7 A. -- is referring to.

8 Q. Let's start with paragraph 4. You see
9 that's the Jupiter distribution center, correct?

10 A. Yes.

11 Q. And if you get to paragraph 6, that
12 references retail pharmacies and you can see the
13 DEA numbers after the -- like on paragraph 6,
14 correct?

15 A. I can see the DEA numbers, yes.

16 Q. And if you turn to paragraph 7, there
17 are additional Walgreens retail pharmacies
18 referenced, correct?

19 A. Yes. I see another DEA number, other
20 DEA numbers.

21 Q. And paragraph 8 are additional Walgreens
22 pharmacies, correct?

23 A. Yes.

24 Q. Paragraph 9 are additional Walgreens

1 pharmacies, correct?

2 A. Yes.

3 Q. And in paragraph 10 it says, "On
4 February 22, 2013, the ALJ consolidated the seven
5 cases into one consolidated proceeding that was
6 scheduled for an administrative hearing initially
7 on January 7, 2013, and then continued until
8 February 25, 2013 and again until April 23, 2013."

9 Do you see that?

10 A. Yes.

11 Q. So, there were seven different cases
12 consolidated into one, correct?

13 MS. SWIFT: Object to the form, foundation.

14 BY THE WITNESS:

15 A. It says the ALJ consolidated the seven
16 cases, yes.

17 BY MR. MOUGEY:

18 Q. So, let's continue now on page 2 of 13,
19 at the bottom there. We just went through the
20 first paragraph before we went into the e-mail
21 version.

22 The second sentence, "Furthermore,
23 Walgreens acknowledges that certain Walgreens
24 retail pharmacies did on some occasions dispense

1 certain controlled substances in a manner not fully
2 consistent with its compliance obligations under
3 the CSA," Controlled Substance Act.

4 Did I read that right?

5 A. Yes.

6 Q. "And its implementing regulations," and
7 it cites 21 CFR Part 1300.

8 Do you see that?

9 A. Yes.

10 Q. And it goes on, "Finally, Walgreens
11 acknowledges that its recordkeeping practices
12 regarding the dispensing of controlled substances
13 from certain retail pharmacies utilizing its CPO
14 facilities as central-fill pharmacies did not
15 require such original prescriptions to be marked
16 'Central Fill.'"

17 Do you see that?

18 A. Yes.

19 Q. Okay. So, when you come on now and
20 you're at Walgreens six months with Pharmaceutical
21 Integrity, was there any sense of urgency in the
22 department to say what were we doing from our
23 distribution center that warranted these cases
24 being brought and what can we do differently going

1 forward?

2 MS. SWIFT: Object to the form, foundation.

3 BY THE WITNESS:

4 A. Not that I recall.

5 BY MR. MOUGEY:

6 Q. Did anyone at Walgreens walk you through
7 the specifics of this significant amount paid by
8 Walgreens and where the problems were?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Can you clarify what you mean by "the
12 specifics," because I did not walk through or get a
13 walk-through for these pages that you're showing me
14 here.

15 BY MR. MOUGEY:

16 Q. Okay. Well, then let's walk through
17 them.

18 So, on page 3 of 13, you see at the very
19 bottom of the page, (2), under "Distribution
20 Centers"?

21 A. Yes.

22 Q. And it says, "Failure regarding any
23 Distribution Center to maintain effective controls
24 against the diversion of controlled substances into

1 other than legitimate medical, scientific and
2 industrial channels, as required by," it cites to
3 the U.S. Code.

4 Do you see that?

5 A. Yes.

6 Q. And that's what's defined under
7 paragraph 2 is "Covered Conduct"?

8 A. Yes.

9 Q. And that paragraph underneath paragraph
10 2 continues on page 4 of 13, "The covered conduct
11 includes any failures to conduct adequate due
12 diligence to ensure that controlled substances were
13 not diverted into other than legitimate channels on
14 or before the effective date of this Agreement."

15 Do you see that as part of the
16 definition of covered conduct?

17 A. Yes.

18 Q. And paragraph 3, "Failure regarding any
19 distribution center to timely detect and report
20 suspicious orders of controlled substances as
21 required again by the U.S. Code."

22 Do you see that?

23 A. Yes.

24 Q. And that's part of the covered conduct

1 of this agreement and the distribution center,
2 correct?

3 A. Yes.

4 Q. No. 4, "Distributing controlled
5 substances to pharmacies by any distribution center
6 that the distribution center knew or should have
7 known were engaged in any of the covered conduct
8 listed in Section 1.2.b of this Agreement on or
9 before the effective date."

10 That's part of the covered conduct,
11 correct?

12 A. That's what it says under, yes.

13 Q. And paragraph 5 is, "Failure regarding
14 any Distribution Center to make complete and
15 accurate ARCOS reports, on or before the effective
16 date."

17 Do you know what an ARCOS report is?

18 A. I've heard the term.

19 Q. But you're not familiar with what the
20 acronym stands for?

21 A. No.

22 Q. Do you understand what the function of
23 ARCOS is?

24 A. I can't recall right now.

1 Q. Does it even ring a bell generally?

2 A. I have heard the term "ARCOS."

3 Q. Other than knowing -- just heard the
4 term at some point, you don't know what it stands
5 for?

6 A. Not right now.

7 Q. And I asked what it stands for. Let me
8 broaden that up.

9 You don't even know what ARCOS is other
10 than just heard the term before, right?

11 A. I can't recall right now.

12 Q. If you turn the page to 5 of 13, very
13 bottom of the page under "Terms and Conditions,
14 Obligations of Walgreens Distribution Centers."

15 A. Which number?

16 Q. 1.

17 A. Got it.

18 Q. Let's go to C. Do you see 1.c, it
19 begins with "Walgreens agrees" under the "Terms and
20 Conditions"?

21 A. Yes.

22 Q. "Walgreens agrees to the surrender of
23 Walgreens Jupiter's DEA registration," gives a
24 number, "for controlled substances Schedules II

1 through V until September 13, 2014."

2 Were you aware during your training at
3 Walgreens that Walgreens was surrendering its
4 Jupiter DEA registration for controlled substances
5 II through V?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. I can't recall if I was aware at the
9 time or not.

10 BY MR. MOUGEY:

11 Q. Do you recall at any point in time being
12 informed by Walgreens that it was surrendering its
13 distribution centers registration for controlled
14 substances II through V?

15 A. I may have been notified. I just can't
16 recall at what point in time.

17 Q. Or that you don't even recall being
18 told?

19 A. I don't remember, no.

20 Q. Yeah. Page 6 of 13, "Walgreens agrees
21 to the surrender of DEA registrations to dispense
22 controlled substances II through V," and it lists
23 six facilities and I'm in paragraph E.

24 Do you see that?

1 A. Yes.

2 Q. Were you aware during your tenure in
3 2013 that your employer had surrendered six of its
4 pharmacy registrations and its ability to dispense
5 Schedule II through V prescription opiates?

6 A. Yes.

7 Q. You were?

8 A. Yes.

9 Q. And when did you become aware of that?

10 A. I don't remember exactly when.

11 Q. Was there a -- some training mechanism
12 where you and the rest of the Pharmaceutical
13 Integrity group kind of went through about what
14 happened when and how do we not repeat our
15 failures?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. No.

19 BY MR. MOUGEY:

20 Q. Did you know specifically what the
21 problems were that Walgreens had agreed to suspend
22 its DEA registration for its six retail pharmacies
23 and its ability to distribute Schedule II through
24 V?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. Not specifically, no.

4 MS. SWIFT: We have been going for like an
5 hour and a half. Can we get to a breaking point in
6 a minute?

7 MR. MOUGEY: Sue. We can stop there if you
8 want because I have a little ways to go with this
9 document.

10 THE VIDEOGRAPHER: Going off the record at
11 2:32.

12 (WHEREUPON, a recess was had
13 from 2:32 to 2:45 p.m.)

14 THE VIDEOGRAPHER: We're back on the record at
15 2:45.

16 BY MR. MOUGEY:

17 Q. On page 7 of the document, the title at
18 the top of the page, "Walgreens General
19 Obligations."

20 Do you see that?

21 A. Yes.

22 Q. And under paragraph C that Walgreens
23 agreed to pay the United States \$80 million?

24 A. I see that.

1 Q. What does that amount, \$80 million, tell
2 you about the significance of this agreement?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. I can't speculate.

6 BY MR. MOUGEY:

7 Q. I'm asking you what it tells you. I'm
8 not asking you to speculate. What does it tell
9 you?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I know \$80 million is a lot of money.

13 BY MR. MOUGEY:

14 Q. And as a Walgreens employee, what does
15 the \$80 million, a lot of money, tell you about the
16 significance of Walgreens' conduct covered in this
17 agreement?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I can't speculate what that \$80 million
21 means.

22 BY MR. MOUGEY:

23 Q. Does it indicate to you, the
24 \$80 million, the significant fine, does that

1 indicate the significant violations of Walgreens'
2 conduct in regard to its obligations under the
3 Controlled Substance Act, does it tell you how
4 important, how large those violations were?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I can't speculate.

8 BY MR. MOUGEY:

9 Q. When you started at Walgreens in
10 January of 2013, did anyone relay to you that there
11 were several open cases with the DEA regarding
12 dispensing and distribution violations?

13 A. No, not that I recall.

14 Q. Don't you think that would have been
15 important in your day-to-day job, identifying
16 suspicious orders, to know that Walgreens had seven
17 significant violations -- I'm sorry -- seven
18 significant investigations ongoing when you
19 started?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. I don't know if it would have been
23 important at the time. My job was to basically
24 train our team and ensure that we were reporting

1 suspicious orders.

2 BY MR. MOUGEY:

3 Q. You don't know whether the fact that
4 Walgreens was being investigated by the DEA in
5 seven different cases would have been important to
6 understand where the holes in the system were?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. For my job, to make sure that we were
10 reviewing all our flagged orders and reporting
11 orders suspicious, if they were suspicious, and
12 making sure that our pharmacists understood their
13 responsibility and our Good Faith Dispensing
14 policy, I don't know that that would have been --

15 Q. That wouldn't have been important --

16 MS. SWIFT: Let her finish her answer.

17 BY MR. MOUGEY:

18 Q. That wouldn't have been important to
19 you?

20 MS. SWIFT: Let her finish her answer.

21 BY THE WITNESS:

22 A. I don't know if it would have made a
23 difference for my job.

24 BY MR. MOUGEY:

1 Q. Did you ever take a test in your seven
2 years of college or graduate school and Doctorate
3 program where "I wish I would have done that
4 differently" and then gone back, went back the next
5 time and changed your practices?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. Would I wish I would have answered the
9 question differently on a test in school? Yes.

10 BY MR. MOUGEY:

11 Q. Or that you, the way you were studying
12 and the way you were implementing the curriculum
13 for your own day to day was maybe not the best way
14 and you went back later and changed it?

15 A. Possibly.

16 Q. You wouldn't think here that when you
17 came on board at Walgreens to know that there had
18 been open investigations for years before you
19 started, some sort of self-evaluation about what we
20 did wrong or what was wrong and what we could do
21 better going forward, that wouldn't have been
22 important to you as part of your job identifying
23 suspicious orders and reporting them to the DEA?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. For my job to train our team and make
3 sure that we were reviewing flagged orders, I don't
4 know that that would have made a difference to the
5 role that I was in or at the time in 2013 and now.

6 BY MR. MOUGEY:

7 Q. Under paragraph 4, "Obligations of the
8 DEA." Section b, "Within five business days of the
9 effective date of this agreement, DEA agrees to
10 unlock the controlled substances storage area of
11 Walgreens Jupiter and make its contents available
12 to Walgreens for any lawful transfer or reverse
13 distribution of the inventory contained therein to
14 an appropriate DEA registrant."

15 Did I read that right?

16 A. Yes.

17 Q. So, you're telling this jury that the
18 first several months you were at Walgreens before
19 this agreement was reached, you don't think it
20 would be important to know why the DEA locked the
21 controlled substance storage area at the Walgreens
22 Jupiter distribution center?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. For my job, I was tasked to ensure that
2 we were reporting suspicious orders and reviewing
3 all the flagged orders.

4 BY MR. MOUGEY:

5 Q. But you --

6 A. I don't know --

7 MS. SWIFT: Let her finish her answer.

8 BY THE WITNESS:

9 A. I don't know that it would have made a
10 difference in my job day to day.

11 BY MR. MOUGEY:

12 Q. If you go back to the stipulation and
13 agreement on page 2 of 3 that "Walgreens
14 acknowledges that suspicious order reporting per
15 distribution center" --

16 MS. SWIFT: She is still getting there.

17 BY MR. MOUGEY:

18 Q. Are you there?

19 A. Yes.

20 Q. "Walgreens acknowledges that suspicious
21 order reporting for distribution to certain
22 pharmacies."

23 Now, that's what you were doing, right?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. My team was tasked to report suspicious
3 orders.

4 BY MR. MOUGEY:

5 Q. That's right. That's the same conduct
6 that's covered under the stipulation and agreement.
7 Correct?

8 MS. SWIFT: Object to the form, foundation.

9 BY THE WITNESS:

10 A. I don't know that to be true.

11 BY MR. MOUGEY:

12 Q. Similar scope of responsibility, similar
13 job description. You were in charge of suspicious
14 order identification and reporting, right?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. My job was to report suspicious orders.

18 BY MR. MOUGEY:

19 Q. And part of the conduct that's part of
20 this stipulation and agreement is suspicious order
21 reporting for distribution centers, correct?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. It says, "Walgreens acknowledges that

1 suspicious order reporting for distribution to
2 certain pharmacies did not meet standards."

3 Yes, I see that.

4 BY MR. MOUGEY:

5 Q. Right. And identifying suspicious
6 orders is what you went to work every day and that
7 was your job, right?

8 A. Yes.

9 Q. And Walgreens is agreeing to a
10 significant fine covering very similar conduct that
11 you were charged with fulfilling on a day-to-day
12 basis, right?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. I don't know that to be true. I haven't
16 read all 343 pages.

17 BY MR. MOUGEY:

18 Q. Well, just the general description --

19 A. I don't know.

20 Q. -- of suspicious orders is your general
21 job responsibility, right?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. My responsibility is reporting

1 suspicious orders, yes.

2 BY MR. MOUGEY:

3 Q. And you would have absolutely -- you'd
4 place no importance on understanding what the
5 failures were identified in this agreement and
6 incorporating those lessons learned into your
7 day-to-day responsibility at Walgreens going
8 forward?

9 MS. SWIFT: Objection; mischaracterizes the
10 testimony and assumes facts.

11 BY THE WITNESS:

12 A. My responsibility was to make sure that
13 we were following the requirements and part of this
14 document related to Pharmaceutical Integrity and
15 our team, yes. Not on this page.

16 BY MR. MOUGEY:

17 Q. But the question I asked was a little
18 different.

19 You would place no importance on
20 understanding what the failures that were
21 identified in this agreement and incorporating
22 those lessons learned into your day-to-day
23 responsibility at Walgreens going forward?

24 MS. SWIFT: Object to the form,

1 mischaracterizes the testimony and assumes facts.

2 BY THE WITNESS:

3 A. I don't know what lessons learned are in
4 this document. My responsibility was to report
5 suspicious orders.

6 BY MR. MOUGEY:

7 Q. I recognize that you don't understand
8 what lessons learned were in this document because
9 you've never reviewed it in detail, right?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I have not read this document --

13 BY MR. MOUGEY:

14 Q. And no one --

15 A. -- from page to page.

16 MS. SWIFT: Let her finish her answer.

17 MR. MOUGEY: I understand and as soon as she
18 starts talking I stop. I don't understand when
19 she's finished and not.

20 BY MR. MOUGEY:

21 Q. So, as soon as you're not done, if
22 you're not done, just please tell me and I'll stop.
23 But when you stop, I start talking. I'm not trying
24 to interrupt you. So, if you're not finished, just

1 let me know. Okay?

2 A. Okay.

3 Q. So, you mean to tell me 343 pages of
4 lessons learned and no one from Walgreens ever sat
5 down and said, "Hey, here's the document, here's --
6 here's what we've -- here's the lessons learned
7 from this document. Here's what we can do better
8 going forward." No one ever sat you down and
9 walked you through that?

10 MS. SWIFT: Object to the form,
11 mischaracterizes the document.

12 BY THE WITNESS:

13 A. I walked through a handful of pages in
14 this document, yes.

15 BY MR. MOUGEY:

16 Q. And the question that I asked you wasn't
17 whether you walked through a handful. Let's do it
18 a third time.

19 So, 343 pages of lessons learned and no
20 one from Walgreens ever sat your team down and
21 said, "Here's what we've learned from this
22 document. Here's what we can do better going
23 forward." No one ever sat you down and walked you
24 through anything similar to that?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. We sat down and talked through the
4 requirements that were in this document related to
5 Pharmaceutical Integrity.

6 BY MR. MOUGEY:

7 Q. And how were those -- how were those
8 relayed to you? In what format?

9 A. We sat down and went through each item
10 in the document.

11 Q. So, did you look through -- I'm sorry.
12 You went through -- your answer before was,
13 "I walked through a handful of pages in this
14 document."

15 So, did you walk through a handful of
16 pages or did you walk through this document in
17 detail and figure out what lessons Walgreen had
18 learned and incorporate those into your day-to-day
19 responsibilities as you got started at Walgreens?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. We at Walgreens and Rx Integrity walked
23 through a few of the pages in this document
24 requiring specific things related to the

1 Pharmaceutical Integrity team.

2 BY MR. MOUGEY:

3 Q. Pharmaceutical Integrity is responsible
4 for good faith dispensing at the pharmacy level,
5 right?

6 A. Yes.

7 Q. And the pharmaceutical team is
8 responsible for identifying suspicious orders from
9 the distribution centers, right?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. We were responsible, yes.

13 BY MR. MOUGEY:

14 Q. And nobody thought it was important to
15 go through this document in detail and go through
16 issue by issue and kind of a lessons learned type
17 strategy going forward?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I don't know if anybody thought it was
21 important.

22 BY MR. MOUGEY:

23 Q. But in your group no one went through it
24 in that kind of detail?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. Not every single page in this document,
4 no.

5 BY MR. MOUGEY:

6 Q. Nothing more than a handful of pages as
7 you referenced earlier, correct?

8 A. The pages related to our team in
9 Pharmaceutical Integrity and what was required of
10 us, yes.

11 Q. All 343 pages pertained to one
12 dispensing and, two, distribution centers and
13 suspicious orders, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't know.

17 MS. SWIFT: Do you want her to look at the
18 whole 343 pages?

19 BY THE WITNESS:

20 A. I haven't read this whole document. I
21 don't know.

22 MS. SWIFT: For the record you've already
23 made -- you've already said earlier this is
24 multiple documents. If you want to talk about

1 which part of the document you're talking about,
2 but you're misrepresenting the document.

3 BY MR. MOUGEY:

4 Q. Do you see the "Procedural Background"
5 in 1 through 7? I mean 1 through 10. I'm sorry.
6 Right?

7 A. Yes.

8 Q. All dispensing and distribution centers,
9 correct?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I don't know if they're related to all
13 dispensing and distribution centers. I see Jupiter
14 and I see some DEA numbers in some of these items,
15 yes.

16 BY MR. MOUGEY:

17 Q. Let's do it like this. Here we are,
18 2018. 343 pages, significant fine, and you don't
19 know the specifics about what's in this document.
20 Is that a fair way to do it?

21 MS. SWIFT: Object to the form,
22 mischaracterizes the documents.

23 BY THE WITNESS:

24 A. I know what was important to my team and

1 what we needed to know for our job functions
2 related to Rx Integrity.

3 BY MR. MOUGEY:

4 Q. But if you haven't reviewed the entire
5 document, how do you know what pieces are important
6 to your team?

7 A. It specifically calls out our team and
8 Rx Integrity in the document.

9 Q. You think that this document covers the
10 conduct of Pharmaceutical Integrity and that's the
11 reason for the significant fine?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. No.

15 MS. SWIFT: Mischaracterizes the testimony.

16 BY MR. MOUGEY:

17 Q. Your testimony was, "It specifically
18 calls out our team and Rx Integrity in the
19 document."

20 Why don't we go to page 11. Do you see
21 "Addendum: Prospective Compliance"?

22 A. Yes.

23 Q. "A. General. 1. Walgreens will
24 maintain a Department of Pharmaceutical Integrity,

1 composed of personnel with pharmacy-related
2 training and managerial personnel, who shall be
3 trained in relevant diversion-related issues, to
4 coordinate compliance efforts related to controlled
5 substances."

6 That's you, right?

7 A. Yes.

8 Q. So, when you said Pharmaceutical
9 Integrity was called out in this document, is that
10 what you're referencing?

11 A. Yes.

12 Q. Any other recollection of Pharmaceutical
13 Integrity being referenced in this document?

14 A. No.

15 Q. So, when you say that we went through
16 this document in sections that called out
17 Pharmaceutical Integrity, that's what you're
18 referencing on page 11 under "Addendum:
19 Prospective Compliance," correct?

20 A. Yes.

21 Q. Who was the dedicated contact person for
22 the DEA as elaborated on in Section A of page 11?

23 MS. SWIFT: Object to form.

24 BY THE WITNESS:

1 A. We created a dedicated e-mail address
2 for the DEA.

3 BY MR. MOUGEY:

4 Q. And what was that?

5 A. It was DEArerecordsrequest@Walgreens.com.

6 Q. And who had access to the
7 DEArerecordsrequest@Walgreens.com?

8 A. Our team, Rx Integrity, and Tasha.

9 Q. Tasha Polster, right?

10 A. Yes.

11 Q. So, it's essentially Pharmaceutical
12 Integrity?

13 A. Yes.

14 Q. The e-mail that you mentioned earlier,
15 the e-mail address that was a group e-mail that
16 was -- that was RxIntegrity@Walgreens.com, who had
17 access to that e-mail address?

18 A. Our team, Rx Integrity.

19 Q. Anybody else outside of your team had
20 access?

21 A. Not that I know of.

22 Q. Anybody else outside of your team have
23 access to the DEA e-mail?

24 A. Not that I know of.

1 Q. So, when the DEA says, "Within one month
2 of the effective date of this agreement Walgreens
3 will identify a dedicated contact point," and it
4 says, "(including a dedicated e-mail address) for
5 DEA within the Department of Pharmaceutical
6 Integrity to facilitate Walgreens' responses to DEA
7 requests for information and documents,
8 specifically including responses to requests for
9 dispensing log data and" -- I never can pronounce
10 that.

11 A. Pseudoephedrine.

12 Q. Thank you. Data. That was a dedicated
13 e-mail address that Walgreens decided to comply
14 with that?

15 A. That was the dedicated e-mail address,
16 DEAreCORDSrequest.

17 Q. If you would turn to page 23, "Order to
18 Show Cause and Immediate Suspension of
19 Registration."

20 Are you there?

21 A. Yes.

22 Q. Okay. Do you see the date at the top?

23 A. Yes.

24 Q. Why don't you read that date out loud.

1 A. September 13, 2012.

2 Q. That's within three months of you
3 starting at Walgreens, correct?

4 A. Yes.

5 Q. And the title of this page 23, "Order to
6 Show Cause and Immediate Suspension of
7 Registration."

8 Do you see that?

9 A. Yes.

10 Q. And we were -- when we were going
11 through the applicable U.S. Code earlier, you
12 recall that the Department of Justice and, more
13 specifically, the DEA had the ability to
14 immediately suspend a distribution center if that
15 registration constituted an imminent danger to the
16 public health and safety. Do you recall that?

17 MS. SWIFT: Objection; lacks foundation.

18 BY THE WITNESS:

19 A. When we were going through earlier, no,
20 I don't.

21 BY MR. MOUGEY:

22 Q. Do you see in the first paragraph under
23 "Notice"?

24 A. Yes.

1 Q. That "because such registration
2 constitutes an imminent danger to the public health
3 and safety"?

4 A. Yes.

5 Q. Wouldn't you have liked to have known
6 that the DEA believed that one of the distribution
7 centers for Schedule II to V opiate prescriptions
8 constituted an imminent danger to the public health
9 and safety when you got started?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I don't know that I would have liked to
13 know at the time as my role was really to start up
14 the team and make sure that we were training the
15 team.

16 BY MR. MOUGEY:

17 Q. That wouldn't have been important to you
18 either?

19 A. I don't know if I would have liked to
20 know if it would have changed --

21 Q. Do you know of any other --

22 A. -- my job.

23 Q. Do you know if any other distribution
24 centers had received subpoenas or under

1 investigation from the DEA when you started or
2 shortly thereafter?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. No.

6 BY MR. MOUGEY:

7 Q. But you don't even know which
8 distribution centers, sitting here in late 2012,
9 early 2013, were responsible for distributing
10 Schedule II and III opiate prescriptions?

11 A. I think I know sitting here today that
12 it was Jupiter and seeing this and Perrysburg, and
13 that's what I can recall.

14 Q. And Woodland, California?

15 A. Yes, and Woodland.

16 Q. There's three?

17 A. Yeah.

18 Q. So, one of them, according to the DEA,
19 constituted an imminent danger to the public health
20 and safety within a couple months of you starting
21 but no one informed you of that fact, correct?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. No, not when I started.

1 BY MR. MOUGEY:

2 Q. And you mentioned Perrysburg. How are
3 you familiar with Perrysburg?

4 A. Perrysburg holds our power of attorney.
5 So, they are the ones that actually execute the
6 C-II orders for our stores, for all our stores.

7 Q. After Jupiter was shut down?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. I don't know if Perrysburg was doing it
11 after or before. I know that they're doing it now.

12 BY MR. MOUGEY:

13 Q. Are you aware that Perrysburg also
14 received subpoenas from the DEA in early '13?

15 A. From the deposition prep.

16 Q. Just from the deposition prep, but not
17 while you were employing your functions as
18 identifying suspicious orders for Walgreens in
19 early 2013?

20 A. Not that I recall.

21 Q. Would that have been good to know, that
22 Perrysburg had received subpoenas from the DEA in
23 early '13 when you were identifying suspicious
24 orders?

1 MS. SWIFT: Object to the form,
2 mischaracterizes the testimony.

3 BY THE WITNESS:

4 A. I think at the time what -- I don't know
5 if I would have liked to know as it wouldn't have
6 changed the role of me training our team and
7 ensuring that we are reporting suspicious orders,
8 reviewing flagged orders and doing the other tasks
9 that were part of my job.

10 BY MR. MOUGEY:

11 Q. If the DEA is firing off subpoenas, does
12 that -- does that -- is that an indicia of "I ought
13 to look a little harder at Perrysburg" in your job
14 day to day and what you're doing?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't know what you mean by looking at
18 a little harder.

19 BY MR. MOUGEY:

20 Q. Well, I mean, you're --

21 A. We get subpoenas today, every day from
22 the DEA. I don't know what you mean.

23 Q. No big deal?

24 A. They're a big deal in that we have to

1 respond to them, yes, absolutely, and within two
2 business days.

3 Q. Similar answer with the \$80 million
4 fine?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I don't know what the question is.

8 BY MR. MOUGEY:

9 Q. We get them every day. No big deal. We
10 didn't have to go through the 343 pages. It
11 really -- just the one page that referred to us in
12 Pharmaceutical Integrity, that's what we looked at.
13 Is that similar?

14 A. No.

15 MS. SWIFT: Object to the form of the
16 question.

17 BY MR. MOUGEY:

18 Q. If you would, please, turn to page 27.
19 Actually, let me stop. I'm sorry. I skipped a
20 section.

21 On page 25. Do you see at the bottom,
22 under paragraph 7, about four or five lines up that
23 begins with "Walgreens knew or should have known"?

24 A. Is it under No. 6 or 7?

1 Q. 7.

2 A. Yes, I see that.

3 Q. "Walgreens knew or should have known
4 about their obligations to report suspicious orders
5 as such obligations were spelled out in detail in
6 three letters from DEA's Deputy Assistant Director,
7 Office of Diversion Control, sent to every
8 registered manufacturer and distributor, including
9 Respondent, on September 27, 2006, February 7,
10 2007, and December 27, 2007. The purpose and
11 proper implementation of suspicious order reporting
12 programs was further discussed in the industry's
13 own trade organization, the Healthcare Distribution
14 Management Association, in 'Industry Compliance
15 Guidelines: Reporting Suspicious Orders and
16 Preventing Diversion of Controlled,' published in
17 2008."

18 Did I read that right?

19 A. Yes.

20 Q. Were any of those documents that I just
21 referenced provided to you as part of your training
22 for identifying suspicious orders and then
23 reporting them to the DEA?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. No, I don't recall receiving them.

3 BY MR. MOUGEY:

4 Q. Any of them?

5 A. I don't recall receiving them.

6 Q. But you'd agree that the DEA letters and
7 the trade association's material referenced in
8 page 25 and 26 of this exhibit are or would have
9 been helpful tools for understanding your role
10 identifying suspicious orders and reporting them to
11 the DEA, correct?

12 A. No.

13 Q. No, you don't agree that they would be
14 helpful, or -- or no, you didn't get them?

15 A. I don't think that it would have changed
16 my job in Rx Integrity.

17 Q. Isn't it kind of hard to say that
18 without ever seeing them?

19 A. Well, I've seen them now.

20 Q. That wouldn't have been helpful. But
21 you haven't seen the HDMA materials, right?

22 A. No, I have not.

23 MS. SWIFT: Object to the form.

24 BY MR. MOUGEY:

1 Q. You haven't seen the Industry Compliance
2 Guidelines, right?

3 A. No.

4 Q. But sitting here you can tell this jury
5 you're pretty sure that they wouldn't have been
6 helpful in fulfilling your obligations, identifying
7 suspicious orders and reporting them to the DEA,
8 right?

9 A. Since I have not seen them, I don't know
10 if they would have been helpful or not.

11 Q. Right. So, the answer is not --

12 A. But the letters in part I have seen.

13 Q. You have seen?

14 A. Well, you just showed them to me.

15 Q. Sure. But I'm not talking in 2018. I'm
16 talking about back in 2013 when you started, these
17 would have been good tools to help you understand
18 what your -- what your day-to-day responsibilities
19 were with identifying suspicious orders and
20 reporting those to the DEA, right?

21 A. I don't know that it would have changed
22 my job and responsibilities --

23 Q. But you --

24 A. -- back in 2013.

1 Q. But you --

2 A. For those letters.

3 Q. But you don't know because you never saw
4 them?

5 MS. SWIFT: Object to the form,
6 mischaracterizes the testimony.

7 BY THE WITNESS:

8 A. I don't know because I did not see the
9 letters at that time.

10 BY MR. MOUGEY:

11 Q. You didn't see the letters or you didn't
12 see the industry trade organization material,
13 correct?

14 A. I did not.

15 Q. If you would, please, turn to page 27.
16 And you were -- you were a practicing pharmacist at
17 one point in your career, correct?

18 A. Yes.

19 Q. And, so, like if I go to Walgreens and
20 pick up a prescription, that's when I'm interacting
21 usually with a technician or someone licensed
22 behind the counter, that would have been you,
23 right?

24 A. Yes.

1 Q. And Good Faith Dispensing places a
2 significant obligation on the pharmacist to
3 identify specific red flags with individuals trying
4 to fill prescriptions, right?

5 A. Good Faith Dispensing, our Good Faith
6 Dispensing, Walgreens' Good Faith Dispensing policy
7 does make note of red flags and the pharmacist to
8 be aware of red flags when dispensing a
9 prescription.

10 Q. And when someone -- if there is a red
11 flag and the kind of front line, so to speak, is
12 the pharmacist and his or her decision of whether
13 or not to fill that prescription, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. It's the pharmacist's decision. They
17 must use their professional responsibility using
18 their best judgment in determining whether the
19 prescription is legitimate to fill using their
20 corresponding responsibility.

21 BY MR. MOUGEY:

22 Q. During your training at Walgreens have
23 you seen any evidence or indicia that Walgreens
24 pharmacists were concerned about their safety when

1 making the decision to not fill a prescription of
2 Schedule II and III opiates?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. Can you clarify "safety."

6 BY MR. MOUGEY:

7 Q. They were afraid to walk to the car.

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. That I don't recall.

11 BY MR. MOUGEY:

12 Q. That you had individuals that had
13 examples of individuals that had picked up opiate
14 prescriptions at Walgreens pharmacies and were
15 smoking the pills in the bathroom?

16 A. That --

17 Q. Never heard of that?

18 A. I don't recall.

19 Q. Would that have been a useful tool when
20 helping discern what a suspicious order was and
21 when to report it to the DEA?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. It's up to our pharmacists to determine

1 whether each prescription is legitimate. So, they
2 have to follow our Good Faith Dispensing policy and
3 they have to resolve any red flags that they
4 identify and they have to document it before they
5 fill it. And if they don't feel that it's in their
6 best professional judgment to fill the
7 prescription, they have the right to refuse the
8 prescription.

9 BY MR. MOUGEY:

10 Q. And if they refuse that prescription and
11 there is a drug seeker on the opposite end of the
12 counter, you can understand why that might cause
13 the pharmacist pause for concern if he or she was
14 worried about their safety, correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't know the nature of that
18 interaction with the pharmacist and the patient and
19 what the patient would do to make that pharmacist
20 feel not safe. I don't know.

21 BY MR. MOUGEY:

22 Q. So, you haven't -- you haven't seen any
23 indication that any pharmacist within Walgreens
24 operations were scared to walk to the car after

1 their shift?

2 A. I can only speculate. I don't know.

3 Q. I'm not asking you to speculate. I'm
4 saying you're not aware of any examples of
5 Walgreens pharmacists scared to walk to their car
6 after their shift?

7 A. Not that I can recall.

8 Q. You're not aware of any drug deals being
9 conducted in Walgreens' parking lot after someone
10 filled their prescription of a Schedule II or III
11 opiate?

12 A. Personally?

13 Q. Yes.

14 A. Not that I can recall, no.

15 Q. When I say "personally," I mean anyone
16 reporting that to you in Pharmaceutical Integrity.

17 A. Not at this point that I can recall.

18 Q. Sitting here, do you recall any
19 instances where there was any reports that
20 Walgreens had individuals smoking prescription
21 opiates in the restroom facilities at Walgreens
22 after filling their prescription?

23 A. Not that I can recall at this time, no.

24 Q. At any point in time during your tenure

1 at Walgreens did you reduce an order so it would
2 not or no longer be deemed suspicious?

3 A. No.

4 Q. Did -- was there a mechanism at
5 Walgreens at any point in time you were familiar
6 with that an incoming order could be reduced to a
7 certain threshold and then Walgreens deem that
8 order not suspicious?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Can you repeat that.

12 BY MR. MOUGEY:

13 Q. At any point in time when you were at
14 Walgreens were you aware that there were any
15 policies where orders could be reduced below
16 certain thresholds and not deemed suspicious and,
17 as a result, weren't reported to the DEA?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. No.

21 BY MR. MOUGEY:

22 Q. Do you think that the suspicious order
23 reporting requirement under the U.S. Code and the
24 regs thereunder are only for orders or for

1 shipments?

2 MS. SWIFT: Object to the form, foundation.

3 BY THE WITNESS:

4 A. I don't know.

5 BY MR. MOUGEY:

6 Q. Do you understand what the word
7 "systemic" means?

8 A. Yes.

9 Q. What does the word "systemic" mean to
10 you?

11 A. So, I think widespread.

12 Q. So, if there were systemic shortcomings
13 at Walgreens with its system to identify suspicious
14 reports and reporting those to the DEA, that would
15 mean across the company, correct?

16 MS. SWIFT: Object to the form, vague,
17 foundation.

18 BY THE WITNESS:

19 A. I think widespread, that's what systemic
20 means.

21 BY MR. MOUGEY:

22 Q. All right. Let's just -- let's turn to
23 page 33, paragraph 23. That begins with "Voluntary
24 dispensing."

1 Do you see that?

2 A. Yes.

3 Q. And do you see the word "systemic" in
4 the third line?

5 A. Yes.

6 Q. And I'm going to replace "systemic" with
7 your word of "widespread," and you tell me if that
8 sentence is accurate.

9 "Voluntary dispensing restrictions
10 enacted either in anticipation of, or in reaction
11 to regulatory action, do not indicate to me that
12 Respondent and its parent company have recognized
13 and adequately reformed the widespread shortcomings
14 discussed herein."

15 So, other than the replacement of
16 "widespread" into "systemic," did I read that
17 sentence correctly?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. You read the sentence correctly, yes.

21 BY MR. MOUGEY:

22 Q. Do you believe it would have been
23 important for you to know that the DEA believed
24 there were widespread shortcomings within

1 Walgreens' suspicious ordering system and the
2 reports, subsequent reports to the DEA?

3 A. I don't know that it would have changed
4 my job and the responsibilities of my job, which
5 was to report suspicious orders and flagged orders,
6 reviewing flagged orders at the time.

7 Q. And, again, I'm confused. If the DEA is
8 saying that there is systemic widespread
9 shortcomings in a system that you're operating in,
10 you wouldn't have wanted to know that when you
11 started at Walgreens in early 2013 through the
12 summer of 2013, that there were potential problems
13 in the system you were operating?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't know what this is -- what time
17 frame this is exactly referring to. But when I was
18 working in Rx Integrity and when we were managing
19 our processes and reviewing orders and approving or
20 not approving orders through CSO KPI, I don't know
21 that I would have needed to know that.

22 BY MR. MOUGEY:

23 Q. Can you go down to the sentence in the
24 right-hand side that says, "I gave significant

1 weight."

2 Do you see where I am?

3 A. Yes.

4 Q. "I gave significant weight to the fact
5 that Walgreens appears to have deliberately
6 structured certain of its anti-diversion measures
7 to avoid learning about and/or documenting evidence
8 consistent with diversion."

9 Do you see that sentence?

10 A. Yes.

11 Q. "At best, I regard this as deliberate
12 indifference on Walgreens' part as its obligations
13 as a DEA registrant."

14 Do you believe the DEA's concerns about
15 Walgreens' indifference would have been important
16 for you to know as you were implementing your job
17 responsibilities identifying suspicious orders and
18 reporting them to the DEA?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. I don't know this to be true. So, no, I
22 don't know.

23 BY MR. MOUGEY:

24 Q. But you wouldn't have wanted to know

1 that the DEA had concerns?

2 MS. SWIFT: Same objection.

3 BY THE WITNESS:

4 A. Again, I don't know that it would have
5 changed my role and my job responsibilities in
6 reporting suspicious orders.

7 BY MR. MOUGEY:

8 Q. But that's a little different than the
9 question I'm asking.

10 The question I'm asking, wouldn't it
11 have been important, wouldn't it have been a factor
12 in your decision-making to know that the DEA
13 believed there were widespread shortcomings when
14 you were fulfilling your critical task of
15 identifying suspicious orders and reporting them to
16 the DEA? That wouldn't have been important to you?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I don't know if I would have wanted to
20 know, if it would have been important to me back in
21 2013.

22 BY MR. MOUGEY:

23 Q. When you say you don't know, I mean, you
24 are highly educated, seven years, I mean a

1 Doctorate degree. You've spent seven years of your
2 life gathering information, understanding how to
3 incorporate that information in your day-to-day job
4 duties, right?

5 A. Yes.

6 Q. I mean, information is critical in what
7 you do on a day-to-day basis, right?

8 A. Yes.

9 Q. I mean, go back to when you were
10 operating as a pharmacist. If you mixed two kinds
11 of pills incorrectly, that could have catastrophic
12 consequences for the patient, correct?

13 A. Yes.

14 Q. I mean, if you mixed and matched, all
15 the information is essential to what you do every
16 day, right?

17 A. Yes.

18 Q. And there is no way you can sit and tell
19 a jury that information isn't paramount in the
20 pharmaceutical business, right?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. Information is important in the role in
24 my job, yes --

1 Q. And here --

2 A. -- in doing my job.

3 Q. Here I'm asking you repeatedly, wouldn't
4 have this information been important in you filling
5 the function of identifying suspicious orders and
6 reporting them to the DEA and you are repeatedly
7 telling me, "I don't know." What is the
8 difference?

9 A. I don't know at the time if this
10 information would have made a difference in my role
11 in doing my job.

12 Q. But as a pharmacist, you're trained to
13 make sure you gather all of the applicable
14 information and incorporate that into what you do
15 in your job responsibilities, correct?

16 A. I am trained to gather information, yes.

17 Q. And as a pharmacist you have access to
18 huge databases that Walgreens puts up that when
19 prescriptions come in that flag and spot and you
20 use as tools in your day-to-day job, right?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. I have access to our CSO KPI tool, yes,
24 that we review flagged orders.

1 BY MR. MOUGEY:

2 Q. But as a -- and your role as a
3 pharmacist, in your first career at Walgreens, you
4 have access to tremendous amount of resources,
5 spotting red flags with different prescriptions,
6 correct?

7 A. When I first started in my job? Are you
8 talking about like back --

9 Q. In your role as a pharmacist.

10 A. In my role as a pharmacist. I have
11 access to -- can you give me a little, an example?

12 Q. You tell me.

13 A. Clarify.

14 Q. You tell me. I mean, there is all kinds
15 of tools that Walgreens had available to you in
16 your role as a pharmacist to help spot potential
17 problems with prescriptions to clients, correct?

18 A. So, yeah, our DUR system, our Drug
19 Utilization Review --

20 Q. And your job --

21 A. -- process.

22 Q. -- was to review all of the information
23 available to make sure there were no problems,
24 right?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. To ensure that the prescription didn't
4 interact with any of the prescriptions the patient
5 was on. To that extent, yes.

6 BY MR. MOUGEY:

7 Q. And when you go to the pharmacist and
8 they give you some warnings and tell you how to use
9 it and how often and make sure you don't take it
10 with this, that's all part of your job, right?

11 A. When I was in the pharmacy filling
12 prescriptions.

13 Q. Thank you.

14 A. Yes.

15 Q. Let's go back to the Pharmaceutical
16 Integrity. I've asked you repeatedly about all
17 kinds of information that was in these 343 pages,
18 and you said, "I don't know if that will help me or
19 not."

20 The information that was available to
21 Walgreens is critical for you in identifying
22 potential problems in the distribution system,
23 correct?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I don't know what information you're
3 referring to that was available to Walgreens.

4 BY MR. MOUGEY:

5 Q. If the -- any information that would
6 have helped you do your job and that the DEA
7 thought there was problems, for example, that the
8 Schedule II and III narcotics cage in the Jupiter
9 center that was padlocked, wouldn't you have wanted
10 to know why it was padlocked?

11 A. I don't know if I would have wanted to
12 know at the time in the course of doing my job.

13 Q. The answer is of course --

14 A. In my role.

15 Q. -- of course you would want to know?

16 A. I don't know that it would have made a
17 difference.

18 Q. Of course you would want to know. Every
19 day your job is to make sure you are identifying
20 problems in the system that the DEA said was
21 critical, your job is to protect the distribution
22 system and pills being diverted out of that system.

23 Wouldn't you want all the information
24 that you could possibly get your hand around so you

1 could make the best decision you could?

2 A. I don't know if it would have changed --

3 Q. I'm not asking --

4 A. -- the course of me doing my job --

5 Q. I'm not asking --

6 A. -- knowing that information.

7 Q. I'm not asking you. I get that's your
8 drumbeat answer. I'm confident that's what you all
9 discussed beforehand.

10 But what I'm asking you is not if it
11 would have changed your decision. What I'm asking
12 you is something different.

13 Isn't it important, with somebody with
14 their Doctorate degree, that you have access to all
15 of the information so you can make intelligent
16 decisions in your critical function, identifying
17 suspicious orders and reporting them to the DEA?
18 Why would you not want all the information you
19 could gather?

20 MS. SWIFT: Object to the form. Which
21 question do you want her to answer?

22 BY THE WITNESS:

23 A. Can you repeat the question.

24 BY MR. MOUGEY:

1 Q. Just answer one of them.

2 A. I don't think that this information -- I
3 don't know if it would have made a difference and
4 if I would have wanted to know at the time, and I
5 don't think that it would have changed what I was
6 doing in my role at Rx Integrity, which was
7 reporting suspicious orders.

8 I don't know if I would have wanted to
9 know at the time, honestly.

10 Q. Do you believe that there were issues
11 with pills migrating from one area of the country
12 to another area?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. What do you mean by "pills migrating
16 from"?

17 BY MR. MOUGEY:

18 Q. Do you know what the word "migration"
19 means?

20 A. Moving, yes.

21 Q. So, if there were pills being dispensed
22 in, say, Florida that were ending up in other parts
23 of the country, for example, Ohio, would that have
24 been an important fact that you would want to know

1 in your job identifying suspicious orders and
2 reporting them to the DEA?

3 A. I had --

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I had seen that in the news that there
7 were people going, driving to Florida and from
8 other states and going back home and getting their
9 prescriptions in Florida, yes. I was aware of
10 that.

11 BY MR. MOUGEY:

12 Q. And when was that discussed internally
13 at Walgreens in part of the training to make sure
14 that that loophole was closed?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't honestly recall when -- when we
18 talked about it or if we talked about it.

19 BY MR. MOUGEY:

20 Q. And do you have any understanding at
21 Walgreens if you ever discussed how big of a
22 problem it was?

23 A. I don't recall discussing specifics.

24 Q. Do you recall discussing it generally?

1 A. Yes, I just said I do recall discussing
2 that patients were driving from other states to
3 Florida to get their prescriptions.

4 Q. I'm sorry. I thought you said that you
5 recalled seeing it on the news?

6 A. And seeing it on the news and discussing
7 it, yes.

8 Q. So, did anyone -- was anyone asked to
9 put together a presentation or a PowerPoint to
10 educate all of these new folks in Pharmaceutical
11 Integrity about the scale and scope of the problem?

12 A. No.

13 Q. Why don't you turn to page 41. Let's
14 look at the last sentence on the bottom of page 41
15 that begins with "DEA." Let me know when you're
16 there.

17 A. Okay.

18 Q. "DEA, State and local law enforcement
19 investigations reveal that thousands of drug
20 seekers flock to these Florida-based pain clinics
21 to obtain their supply of oxycodone and other
22 controlled substances such as" -- I never can
23 pronounce this one either. Help me.

24 A. Alprazolam.

1 Q. Thank you.

2 -- "which has been in turn illegally
3 redistributed in states along the entire East Coast
4 and Midwest."

5 Correct?

6 A. That's what it says, yes.

7 Q. Do you recall at Walgreens internally
8 that the Pharmaceutical Integrity group discussed
9 that patients traveling a long distance to get
10 prescriptions was a suspicious order or a red flag?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. We discussed that our pharmacists need
14 to identify patients with a further geographical
15 proximity from where the pharmacy was to where
16 their doctor was was considered a red flag that the
17 pharmacist needed to resolve and that the
18 pharmacist needed to be aware there are patients
19 that could be traveling to an oncology specialty
20 hospital getting their treatment, getting their
21 medication and flying back to their home state,
22 yes, we discussed that they needed to resolve that
23 before they legitimately filled a prescription if
24 they had concerns of distance.

1 Q. You know what a database is, right?

2 A. Yes.

3 Q. And do you have a database at Walgreens
4 that you all could search the residence of the
5 patient picking up a prescription and where they
6 were picking up the prescription to identify the
7 individuals that were traveling long distances?

8 A. We had patient information, patient
9 addresses, yes.

10 Q. So, could you have searched in your
11 databases and identified those patients that had
12 traveled long distances?

13 A. Assuming those addresses were correct,
14 both on the -- the prescriber addresses as well as
15 the patient addresses, we could search that, yes.

16 Q. Sure. But part of the fulfilling the
17 prescription is showing a driver's license, right?

18 A. Not in every case, no.

19 Q. In --

20 A. Only in certain states where it's
21 required.

22 Q. Let's just do Florida. Florida required
23 a driver's license, correct?

24 A. As far as I can recall, yes.

1 Q. And the prescriber's address is in
2 the -- is in the database, right, or were they --

3 A. If it's correct, yes.

4 Q. And the Walgreens address where the
5 prescription was picked up is in the database,
6 right?

7 A. Yes.

8 Q. So, Walgreens had the ability to run a
9 query and identify the individuals that were
10 picking up prescriptions long distances from their
11 residents, correct?

12 A. I don't know. I could not run that
13 query myself.

14 Q. And do you know that that was part of
15 the mechanism that your group employed to try to
16 identify suspicious orders, people that were
17 picking them up from long distances away?

18 A. No, I'm not aware of that.

19 Q. On page --

20 A. In my group.

21 Q. I'm sorry. On page 41, the sentence
22 that we just went through that references people,
23 "thousands of drug seekers flock to Florida-based
24 pain clinics and in turn illegally redistributed in

1 states along the entire East Coast and Midwest," is
2 that something that you would have wanted to know
3 when asking someone at Walgreens to help design a
4 system to identify pill seekers that were picking
5 up prescriptions in disparate miles, large amount
6 of time from the Walgreens?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. I was not involved in the design of the
10 system you're referring to. So, I don't know if I
11 would have wanted to know.

12 BY MR. MOUGEY:

13 Q. Did you ever see a report that
14 indicated, "Hey, here's these hundreds of people at
15 each Walgreens that were flocking to these
16 Walgreens retail pharmacies and their addresses are
17 from foreign states as a mechanism to identify
18 suspicious orders"?

19 A. No.

20 Q. Never saw a report to this day that
21 anyone's ever run and shown you?

22 A. Not that I'm aware of. I don't know.

23 Q. You had no input as a manager in
24 Pharmaceutical Integrity about the types of queries

1 or data pulls that you needed to fill your role?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. The main function of our job was to
5 identify flagged orders which our system, our
6 CSO KPI tool, was already developed to do. I was
7 not involved in the development of that tool.

8 BY MR. MOUGEY:

9 Q. Right, but the question I asked was a
10 little different. I said did you have any input as
11 a manager in Pharmaceutical Integrity about the
12 types of queries or data pulls that you need to
13 fill -- fulfill your role identifying suspicious
14 orders?

15 A. I could request specific queries.

16 Q. But did you ever ask for a specific
17 query trying to identify patients who had picked up
18 prescriptions a long distance from their home?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. No, I did not. Our pharmacists were
22 required to review the prescription and determine
23 whether it was legitimate using their corresponding
24 responsibility, each prescription that they filled.

1 BY MR. MOUGEY:

2 Q. Well, if the pharmacist was on the front
3 line, is charged with implementing and identifying
4 those suspicious orders, what function did your
5 department have?

6 MS. SWIFT: Object to the form,
7 mischaracterizes the testimony.

8 BY THE WITNESS:

9 A. Our job was to ensure that anything that
10 our system flagged was either identified as
11 suspicious and reported to the DEA or it was not
12 considered suspicious. And we did work with the
13 pharmacists in determining whether those flagged
14 orders were suspicious and the pharmacy manager at
15 the store on a daily basis.

16 BY MR. MOUGEY:

17 Q. Did you work full time in '13, '14, '15?

18 A. Yes.

19 Q. Was there any point in time after you
20 came back into Pharmaceutical Integrity that you
21 didn't work full time?

22 A. Since 2013, no.

23 Q. So, the system that you've referred to,
24 who was in charge of developing that system?

1 A. To my understanding, we had Wayne
2 Bancroft, John Maritello (phonetic), I believe
3 Tasha was involved in developing that system and
4 probably to some extent Steve Mills.

5 Q. Steve Mills was one of the analysts?

6 A. Yes.

7 Q. Do you have an understanding of when
8 Wayne Bancroft and John, Mr. Mills and Ms. Polster
9 implemented the system that was currently used --
10 when I say "currently used" -- the automated app
11 that you've referenced?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. The CSO KPI tool I think was in the
15 midst of being developed and finalized when I first
16 started in January. So, it was already -- there
17 was already a tool. I just don't know completely
18 when it was finished. Probably early 2013.

19 BY MR. MOUGEY:

20 Q. But it wasn't finished when you started?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. I think they were still developing it
24 from when I very first started, yes.

1 BY MR. MOUGEY:

2 Q. You mentioned earlier that parts of it
3 were manual and then it became automated. What was
4 the difference between the manual and the automated
5 component?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. So, to the best of my recollection, the
9 documentation was in -- within the CSO KPI tool
10 once it was completely automated and the pharmacist
11 could respond within the tool. Prior to that the
12 pharmacist would respond in an e-mail.

13 BY MR. MOUGEY:

14 Q. Okay. So, essentially when you say
15 automated, that it was a measure or a means to
16 capture some of the notes and correspondence back
17 and forth with the pharmacy?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. It was just a different way to capture
21 it, yes.

22 BY MR. MOUGEY:

23 Q. Okay. Different meaning it was --
24 before I think you referenced that it was captured

1 in e-mail, correct?

2 A. Yes.

3 Q. And now it was one place where you could
4 go and others could see and it was essentially a
5 database, correct?

6 A. It was a CSO KPI tool, yes.

7 Q. All right. So, if now you wanted to go
8 into the -- I'm just going to call it CSI. It's
9 too many. What is it again?

10 A. CSO KPI.

11 Q. Just give me the first three. I'm
12 drowning in acronyms. What is it?

13 A. CSO.

14 Q. CSO. Can you now go to CSO and search
15 notes that you put in in the middle of '13?

16 A. I don't know if I can go back that far
17 on my own, but I think we can -- we can find that
18 data or get that data.

19 Q. Say you had a -- you wanted to go back
20 and kind of do a more deep dive due diligence on a
21 specific Walgreens pharmacy. Who would you go to
22 to find out whether or not how far back you can go?

23 A. I would probably ask Steve.

24 Q. Steve. And if Steve didn't know, who

1 would be the point of contact on the tech side?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. I think there is a manager on the IT
5 side. I'm trying to recall his name. Steve
6 Bamberg. I would ask him.

7 BY MR. MOUGEY:

8 Q. Do you have any understanding sitting
9 here today how far back you can look today into
10 CSO?

11 A. No, I don't recall how far back.

12 Q. Do you recall generally how far back you
13 can look?

14 A. I -- I don't.

15 Q. Walk me through what fields or areas of
16 information that are stored in CSO.

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. So, if someone was approving or
20 reviewing an override, they could see the store
21 ceiling for that particular item and they could see
22 what the store was asking for as far as with
23 respect to how many bottles or boxes they were
24 asking for. You could also see the store's

1 explanation for why they needed the additional
2 product.

3 And then I can see, if I were to look
4 and see their history, I could see that someone
5 maybe had approved an increase in their ceiling,
6 for example, prior to today, for example, if I was
7 looking at an order from today.

8 Q. So, if you wanted to --

9 A. A request.

10 Q. -- run a query on stores and their
11 history of overrides, you could do that depending
12 on how far back you were looking?

13 A. I could not do that, no.

14 Q. But you could go to somebody, whether it
15 be Steve or potentially somebody in your technology
16 department, that could help run the query if you
17 needed to?

18 A. Yes, I think that's true.

19 Q. What other information other than
20 overrides and the notes you mentioned would be
21 available in CSO?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. Just the drug that the pharmacy is

1 requesting. I think I already mentioned the
2 ceiling, the quantity, the previous history, if
3 there is any history, the store information, where
4 they're located. I think it includes their general
5 area as well as their address and their store
6 number.

7 BY MR. MOUGEY:

8 Q. Now, when you say that the drug that the
9 pharmacy is requesting, do you have an
10 understanding of whether or not the transactional
11 data is contained in CSO?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. Can you repeat the question.

15 BY MR. MOUGEY:

16 Q. Yes. It was awkward.

17 Transactional data meaning the order by
18 order. Can you pull that out of CSO?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. The order by order from the store, no.

22 BY MR. MOUGEY:

23 Q. You mentioned the previous history.
24 What do you mean by previous history?

1 A. So, if there was one of our team members
2 that had approved and increased the ceiling for a
3 store, you can see the previous history for that
4 particular item for that store.

5 Q. So, that pertains to the ceiling, the
6 previous history --

7 A. Yes.

8 Q. -- as far as how many ceiling increases
9 there were.

10 So, it would be -- you think it would be
11 possible to search how many ceiling increases there
12 were over some period of time?

13 A. Yeah, I think that's possible.

14 Q. All right. That would be important when
15 you were looking at suspicious orders and how many
16 times the ceiling had been requested, right?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. I'm not sure I understand your question.

20 BY MR. MOUGEY:

21 Q. Well, the ceiling had been requested to
22 be increased on a couple of occasions or several
23 occasions. That pattern would be important to you
24 in making decisions in Pharmaceutical Integrity

1 about whether or not there was a suspicious order,
2 correct?

3 A. Depending on the situation, it may be
4 important for me to see that.

5 Q. But it was a factor that you might look
6 at, right?

7 A. I may look at that, yes.

8 Q. And if there was a pattern of having
9 requests for ceiling increases, that would be
10 something that you might drill down on?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. I may depending on the situation.

14 BY MR. MOUGEY:

15 Q. And if you drill down on it and you
16 gathered information, would you then put it into
17 CSO so that would be -- conversation would be
18 memorialized in the notes?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. What do you mean by drill down into it?

22 BY MR. MOUGEY:

23 Q. Just did further due diligence. You
24 did -- look for more information.

1 So, if you wanted to go back and look at
2 previous conversations or previous information that
3 you gathered, you could put that into CSO, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I can enter comments into the CSO tool,
7 yes.

8 BY MR. MOUGEY:

9 Q. Is that your practice to enter comments
10 into the CSO tool?

11 A. If I'm reviewing an order, yes.

12 Q. And if you are -- if there is a ceiling
13 increase and you wanted to find out why, would
14 you -- and you did -- you did find out why, would
15 you put that information into CSO?

16 A. If there's a prior ceiling increase, the
17 documentation would be in there. I wouldn't
18 necessarily need to go find out why because it
19 would be documented in the tool already.

20 Q. Because the pharmacist would --

21 A. The pharmacist and the person that
22 approved the ceiling increase would have documented
23 that. So I can see that.

24 Q. Who is it that approves the ceiling

1 increases?

2 A. Today primarily our Pharmaceutical
3 Integrity coordinators and then to a certain
4 extent, our senior analysts.

5 Q. If you wanted to search your e-mail
6 today, how far back does your e-mail system go?

7 A. So, I know that they've recently
8 archived a portion of it. I want to say maybe
9 2014, 2013, but I'm not 100% sure on that.

10 Q. So, if you wanted to go back and search
11 e-mails or whatever, you think you can go back to
12 '13 or '14?

13 A. I'm not 100% sure that's accurate.

14 Q. Do you keep e-mails in any other places
15 other than on your work system?

16 A. Not that I know of. No.

17 Q. Do you e-mail about work-related issues
18 from another e-mail address?

19 A. No.

20 Q. Do you only use your work system to
21 discuss any issues at work?

22 A. Yes. It's against our policies to use
23 any other thing -- anything other than my laptop,
24 for example, my own e-mail address.

1 Q. And you don't store any e-mails any
2 other places other than on your desktop at work?

3 A. No.

4 Q. And do you store e-mails on your
5 desktop?

6 A. No, not really. I store them in my
7 e-mail box.

8 Q. No, not really or no, you don't?

9 A. Not that I can recall. I don't have --
10 I have almost nothing on my desktop. I don't use
11 it.

12 Q. You don't have any hard drives or
13 anything else that you have kept e-mails on or
14 stored or anything along those lines, thumb drives,
15 anything along those lines?

16 A. No.

17 MR. MOUGEY: Could we take a few minutes. Let
18 me shift gears on documents.

19 THE VIDEOGRAPHER: We're going off the record
20 at 3:47.

21 (WHEREUPON, a recess was had
22 from 3:47 to 4:01 p.m.)

23 THE VIDEOGRAPHER: We are back on the record
24 at 4:01.

1 BY MR. MOUGEY:

2 Q. Ms. Daugherty, do you have any
3 understanding of why the Perrysburg distribution
4 center may have to close?

5 A. Today? No.

6 Q. No, back in -- I'm sorry.

7 Back in 2013, why would the --

8 A. That's what confused me.

9 Q. Why would the Perrysburg distribution
10 center have had to close?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. I don't know.

14 BY MR. MOUGEY:

15 Q. Do you recall having any communications
16 with other Walgreens personnel about whether or if
17 the Perrysburg distribution center would close?

18 A. No, I don't recall.

19 Q. Were you aware in early '13 when you
20 first started at Walgreens that the Perrysburg
21 distribution center had received subpoenas from the
22 DEA?

23 A. I don't recall.

24 Q. If in fact the Perrysburg distribution

1 center in early '13 did have to close, would it be
2 important for the pharmacist to understand why, the
3 Walgreens pharmacist to understand why?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. In terms of understanding that their
7 prescription drugs would not be coming from that
8 distribution center? No. Just to know where else
9 they could be getting the medications from.

10 BY MR. MOUGEY:

11 Q. If the Perrysburg distribution center
12 shut down and was no longer distributing controlled
13 substances, primarily Schedule II and III opiate
14 prescriptions, and there were issues or flaws with
15 Walgreens' system, would that be important for the
16 pharmacist to know?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. Can you elaborate on "issues or flaws"
20 in what system?

21 BY MR. MOUGEY:

22 Q. The distribution system, the suspicious
23 order monitoring system, that there were problems
24 with that system, would that be -- in the

1 Perrysburg distribution center. Would that be
2 important for them to know?

3 MS. SWIFT: Object to the form, compound.
4 Which system?

5 BY MR. MOUGEY:

6 Q. The number of systems and whether they
7 really exist or not and when is kind of confusing,
8 isn't it?

9 So, the distribution system center at
10 Perrysburg in early 2013, whatever system was in
11 place at that point.

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. I'm not familiar with the system.

15 BY MR. MOUGEY:

16 Q. In early 2013?

17 A. In Perrysburg, no.

18 Q. But in early 2013 you were charged with
19 identifying suspicious orders and performing any
20 due diligence, if any, on those orders, correct?

21 A. Yes.

22 Q. And would you perform the due diligence
23 on the suspicious orders or would the distribution
24 center perform the due diligence on the orders?

1 A. When I first started in January of 2013,
2 we had a team that was reviewing flagged orders and
3 identifying them as suspicious or not.

4 Q. And was there any request that in early
5 '13 that went to the distribution centers for it to
6 perform due diligence?

7 A. Not that I know of.

8 Q. So, would it be important for
9 pharmacists to understand if there were issues with
10 Walgreens' suspicious order monitoring system and
11 orders being filled at the Perrysburg distribution
12 center, would it have been important for them to
13 know that?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. Our pharmacists would have needed to
17 know if their medications were coming from a
18 different distribution center, yes.

19 BY MR. MOUGEY:

20 Q. But the question was if there were
21 system failures, not just that they were coming
22 from, would it be important that the pharmacist
23 understand that there were system failures with
24 Walgreens' suspicious order monitoring policies,

1 for the pharmacist to know that there were issues?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. I don't know if it would have been
5 important for a pharmacist at Walgreens in a store
6 to know that there was an issue with a system which
7 I'm not familiar with at that time.

8 BY MR. MOUGEY:

9 Q. I hand you what I've marked as Daugherty
10 13.

11 MS. SWIFT: I think we have already marked 13.

12 MR. MOUGEY: 14 then.

13 MS. SWIFT: I think we've already marked 14.

14 MR. MOUGEY: Daugherty 15.

15 (WHEREUPON, a certain document was
16 marked Walgreens-Daugherty
17 Deposition Exhibit No. 15:
18 Administrative Inspection Warrant;
19 WAGMDL00493697 - 00493700.)

20 BY MR. MOUGEY:

21 Q. Do you see on the right-hand side that,
22 Bates No. 97, Administrative Inspection Warrant?
23 Do you see that?

24 A. Yes.

1 Q. And on the left-hand side it says, "In
2 the Matter of the Administrative Inspection of
3 Walgreens Corporation."

4 A. Yes.

5 Q. Perrysburg, Ohio. Correct?

6 A. Correct.

7 Q. And that's one of the Walgreens
8 distribution centers, correct?

9 A. Yes.

10 Q. And if you turn to the very last page,
11 it's dated February 5, 2013.

12 Do you see that?

13 A. Yes.

14 Q. And if you go to Bates No. 99 of this
15 document, that Walgreens Perrysburg distribution
16 center was "further authorized to remove for
17 copying from the above-described controlled
18 premises the following records, reports, documents,
19 files and inventories, including computerized
20 records as are appropriate and necessary to the
21 effective accomplishment of the inspection."

22 Do you see that?

23 A. What page are you on?

24 Q. I'm on page --

1 A. 3?

2 Q. Bates No. 99 or page 3.

3 A. I see that.

4 Q. Okay. And the DEA goes on that "all
5 other records which refer to or relate to
6 distribution of controlled substances."

7 Do you see that? On page 4, Bates
8 No. 70, under A.

9 A. Yes.

10 Q. And you understand that a subpoena or an
11 investigative warrant is asking for material so the
12 DEA could perform its review or process, correct?

13 A. Yes.

14 Q. And I think you mentioned earlier that
15 Walgreens gets subpoenas every day, and it's really
16 not a big deal or anything out of the ordinary, is
17 that right?

18 A. Walgreens --

19 MS. SWIFT: Objection; mischaracterizes the
20 testimony.

21 BY THE WITNESS:

22 A. Walgreens gets subpoenas every day.

23 BY MR. MOUGEY:

24 Q. So, it's not anything --

1 A. And it is important. We take it very
2 seriously and make sure we respond to every single
3 one.

4 Q. But this isn't anything out of the
5 ordinary, to receive this kind of request for
6 information?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. What's "this"? I'm sorry.

10 BY MR. MOUGEY:

11 Q. "This" is the document that we're
12 looking at, Daugherty 15, this Administrative
13 Inspection Warrant. This is -- this is an example
14 of documents that Walgreens receives every day. It
15 is not anything out of the ordinary, correct?

16 MS. SWIFT: Objection; mischaracterizes the
17 testimony.

18 BY THE WITNESS:

19 A. This is a -- not the subpoenas -- we
20 typically get subpoenas for prescription records.

21 BY MR. MOUGEY:

22 Q. So, do you think this one maybe was a
23 little more important than the ones you were
24 referring to that you receive regularly?

1 MS. SWIFT: Objection; foundation.

2 BY THE WITNESS:

3 A. I don't know.

4 BY MR. MOUGEY:

5 Q. You don't know?

6 A. I can't speculate.

7 Q. Pardon me?

8 A. I don't know.

9 Q. I hand you what we've marked as
10 Daugherty 16.

11 (WHEREUPON, a certain document was
12 marked as Walgreens-Daugherty
13 Deposition Exhibit No. 16: US
14 DOJ/DEA Subpoena; WAGMDL00493694 -
15 00493718.)

16 BY MR. MOUGEY:

17 Q. Keep 15 in front of you, please. And
18 this is also dated February of 2013.

19 Do you see that? First page, bottom
20 left-hand corner.

21 A. Yes.

22 Q. And it is titled "U.S. Department of
23 Justice/Drug Enforcement Administration Subpoena,"
24 correct?

1 A. Yes.

2 Q. And you see directly underneath that at
3 the top of the page, "In the matter of the
4 investigation of Case No. 17-13-2042," correct?

5 A. Yes.

6 Q. And on the left-hand side of the
7 page "Walgreens Corporation" and you see
8 "Distributor" in parens, correct?

9 A. Yes.

10 Q. "Custodian of records at," and it has
11 the address for the Perrysburg, Ohio distribution
12 center, correct?

13 A. Yes.

14 Q. And, again, in the middle of the
15 paragraph beginning with "Pursuant," the DEA is
16 requesting a series of documents regarding the
17 purchases of controlled substances between the
18 dates of beginning of business 2/1/11 and close of
19 business 2/5/13.

20 Do you see that?

21 A. Yes.

22 Q. Now, do you have any understanding of
23 whether or not Walgreens internally was discussing
24 closing down the Perrysburg distribution center

1 after receiving these subpoenas?

2 A. At the time I recall I was involved in
3 communicating to stores, but just working with
4 actually submitting a communication to the stores
5 around Perrysburg, but I don't recall the
6 specifics.

7 Q. Who's Bob Martin?

8 A. She is manager in the inventory team.

9 MS. SWIFT: Did you say Bob or Barb?

10 BY THE WITNESS:

11 A. Barb. It's Barbara.

12 BY MR. MOUGEY:

13 Q. Is it Barb?

14 A. It's Barbara, yeah.

15 Q. Thanks. Barb. She is a manager in the
16 inventory side?

17 A. Yes.

18 Q. Sitting here today, do you have any
19 understanding of whether the closing of the
20 Perrysburg distribution center had anything to do
21 with the fact that Walgreens received a warrant and
22 a subpoena for a records request?

23 A. No, I don't.

24 Q. No, you don't know or no, it wasn't?

1 A. No, I don't know.

2 Q. Okay. Do you think it was just a --
3 let's go to the next. Let's go to Daugherty 17.

4 (WHEREUPON, a certain document was
5 marked as Walgreens-Daugherty
6 Deposition Exhibit No. 17: 2/15/13
7 e-mail with attachment;
8 WAGMDL00303243 - 00303245.)

9 BY MR. MOUGEY:

10 Q. This is -- purports to be an e-mail
11 between you and Barb Martin, correct?

12 A. Yes.

13 Q. And it's dated 2/15/2013, correct?

14 A. Yes.

15 Q. And the e-mail is from Ms. Martin to
16 yourself and it's not copied to anyone else,
17 correct?

18 A. No.

19 Q. And she's transmitting, "Per my
20 voicemail. Here are copies of my draft
21 communications to go out to the stores serviced by
22 Perrysburg. To be sent out if Perrysburg has to
23 close."

24 Do you have an understanding of what

1 Ms. Martin was referring to "if Perrysburg has to
2 close"?

3 A. Yes.

4 Q. What was she referring to?

5 A. If Perrysburg could not distribute
6 controlled substances to our store.

7 Q. All right. But why?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. I don't -- I don't know. At the time I
11 don't know.

12 BY MR. MOUGEY:

13 Q. You had me for a minute. I thought -- I
14 thought we had some information. But you don't
15 know why. You don't know why Perrysburg had to
16 close?

17 A. No, I was not --

18 Q. I go all excited for a second.

19 A. -- involved.

20 Q. The sentence there about "to be sent out
21 if Perrysburg has to close," you don't know what
22 she is referring to why it would close?

23 A. No, I --

24 Q. The reasons why?

1 A. I did not know the reasons why.

2 Q. Did it think of you to ask why would we
3 be closing our Perrysburg distribution center?

4 A. At the time I did not.

5 Q. Because you had only been there at this
6 point a month and a half, right?

7 A. That's correct.

8 Q. Do you have any understanding of why
9 Ms. Martin was communicating with you about
10 coordinating with the individual pharmacies
11 regarding Perrysburg and whether or not it had to
12 close?

13 A. She was asking me to facilitate the
14 communication.

15 Q. So you were just going to send it out?

16 A. If she had indicated that I should send
17 it out, yes. I would work with our communications
18 department. That's my -- that was my role in this.

19 Q. So, here you are, six months into your
20 new career at Walgreens in Pharmaceutical
21 Integrity, and there are seven ongoing cases
22 including the Jupiter distribution center and now
23 you are notified that the Perrysburg distribution
24 center might have to close.

1 Did that give you any alarm or concern
2 about why?

3 MS. SWIFT: Objection; mischaracterizes the
4 document and the facts.

5 BY THE WITNESS:

6 A. So, just to clarify. This was one month
7 into my role, one month and maybe a week.

8 At the time I did not know why we were
9 closing Perrysburg or considering closing
10 Perrysburg. I didn't know if it was related to
11 moving business to Cardinal or -- I had no
12 knowledge of it.

13 BY MR. MOUGEY:

14 Q. You didn't know about the seven ongoing
15 cases regarding the Jupiter distribution center and
16 the six pharmacies around the country, correct?

17 A. In -- in February, I don't know if I
18 knew that at the time.

19 Q. If you would have known about the seven
20 ongoing cases, six retail pharmacies, the Jupiter
21 distribution center, would it have caused you alarm
22 that a second distribution center may have to
23 close?

24 A. I don't know if it would have caused me

1 alarm.

2 Q. Would you have thought it was important
3 in your day-to-day responsibilities to know that
4 the second, two out of three distribution centers
5 responsible for distributing Schedule II and III
6 opiate prescriptions was about to close?

7 A. I don't know if it would have changed my
8 duties in my job.

9 Q. And I'm not asking you again if it
10 changed your duties or changed your job. Would it
11 have been important for you to know as a factor in
12 your consideration that the second out of three
13 distribution centers that were responsible for
14 distributing Schedule II and III opiate
15 prescriptions might have to close?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. I was focused on doing my job at the
19 time and making sure we were training our team
20 members. So, I don't know if I would have thought
21 it was important at the time.

22 BY MR. MOUGEY:

23 Q. Do you recall whether or not you were
24 aware of the subpoenas at the time you received

1 this draft communication from Ms. Martin?

2 A. I don't believe I was aware of the
3 subpoenas, but I can't recall.

4 Q. So, let's turn to Ms. Martin's draft
5 communication that she sent to you within a little
6 less than two weeks from the subpoenas being sent
7 to the Perrysburg distribution center.

8 So, Ms. Martin is asking you to help
9 transmit or facilitate this process, correct?

10 A. She's helping me -- she's asking me to
11 help her facilitate the communication, yes.

12 Q. All right. And her draft is, "Select
13 Pharmacy Managers, Beginning the week of
14 February 18, 2013, stores that have been receiving
15 their Schedule II controlled substance orders from
16 the Walgreens distribution center in Perrysburg,
17 Ohio will now have their orders shipped from the
18 local Cardinal center."

19 Do you see that?

20 A. Yes.

21 Q. Now, February 18 is three days after
22 this e-mail comes out, right?

23 A. Yes.

24 Q. Did you find that as odd that Ms. Martin

1 was asking you to facilitate a communication that
2 the Perrysburg distribution center was closing in
3 three days, potentially closing in three days?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I think the e-mail said that it was
7 potentially closing. So, no.

8 BY MR. MOUGEY:

9 Q. Didn't give you any alarm, that we are
10 going to send out an e-mail to the select pharmacy
11 managers and say, "Hey, three days from now we're
12 going to shut down the distribution center in
13 Perrysburg and you have to go to Cardinal"?

14 A. At the time this was just a proposed
15 communication, so...

16 Q. So it didn't cause you any alarm?

17 A. I didn't think that it was necessarily
18 going to go out on February 18. This is just the
19 way that it was draft written.

20 Q. So, she continues with "What do I need
21 to know?" And she says, "Well, the Schedule II
22 controlled substance order day will remain the
23 same."

24 Do you see that in the first bullet

1 point?

2 A. Yes.

3 Q. And then the second says, "Posting
4 procedures in SIMS will be the same as all other
5 receipts from Cardinal."

6 And Cardinal is another distributor,
7 right?

8 A. Yes.

9 Q. And "Upon receipt, please follow the
10 current posting procedures for Schedule II
11 controlled substance order deliveries."

12 Right?

13 A. Yes.

14 Q. "Before, Cardinal only filled the
15 Schedule II controlled substance order for items
16 that Perrysburg didn't carry. Now, all Schedule II
17 controlled substance orders will be fulfilled by
18 the local Cardinal center."

19 Correct?

20 A. Yes.

21 Q. So, your job that you've just been hired
22 to do was to identify suspicious orders and report
23 those to the DEA, right?

24 A. Yes.

1 Q. And that was primarily Schedule II and
2 III prescription medications, correct, prescription
3 opiates, correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. It included all controlled substance
7 medications, II through Vs and pseudoephedrine,
8 yes.

9 BY MR. MOUGEY:

10 Q. So, you didn't question anything
11 regarding your role in your job and the fact that
12 one of the three distribution centers might be
13 closing?

14 A. I did not know why the distribution
15 center would be closing. I had no knowledge of
16 why.

17 Q. Now, how did -- did the Perrysburg
18 distribution center ultimately end up closing?

19 A. Honestly, I can't recall.

20 Q. You can't recall sitting here whether
21 the Perrysburg distribution center, one of the
22 three Schedule II distribution centers for
23 Walgreens, closed?

24 A. Well, technically they're not closed.

1 They still have power of attorney and they still
2 distribute drugs out of Perrysburg as far as I
3 know.

4 Q. So, when you say you didn't recall, what
5 did you mean?

6 A. I don't recall when controlled
7 substances stopped being shipped from Perrysburg.
8 If I had to take a guess, it was probably in the
9 spring of 2013, but I don't know exactly. Maybe
10 later. I don't know. I can't say definitively
11 what date.

12 Q. Can you -- I think the question I asked
13 you was just whether it closed or not. Do you
14 recall that?

15 A. I recall --

16 Q. Let's start there.

17 A. -- at some point Perrysburg stopped
18 shipping controlled substances to our stores, yes.

19 Q. So, when it closed, were the Schedule II
20 and Schedule III opiate prescriptions then migrated
21 or transferred to Cardinal?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. Yes.

1 BY MR. MOUGEY:

2 Q. And who was responsible for overseeing
3 the transfer from the Walgreens facility,
4 Perrysburg, to Cardinal?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I don't know. I can only speculate it
8 was Rx Inventory, but I don't know that to be for a
9 fact.

10 BY MR. MOUGEY:

11 Q. So, did Cardinal have a suspicious order
12 monitoring policy that it used?

13 MS. SWIFT: Object to the form, foundation.

14 BY THE WITNESS:

15 A. To my recollection, yes.

16 BY MR. MOUGEY:

17 Q. But you don't have any -- do you have
18 any better understanding of what Cardinal was using
19 to identify suspicious orders than you do
20 Walgreens?

21 A. Better understanding than I understand
22 the Walgreens system?

23 Q. Do you have any understanding of what
24 Cardinal's suspicious order monitoring policy was

1 when the Perrysburg system closed?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. I have recollection of receiving survey
5 questionnaires from Cardinal for specific store
6 locations, our specific store locations, and
7 performing their suspicious order monitoring
8 process or their due diligence.

9 BY MR. MOUGEY:

10 Q. And when you say -- when you referenced
11 earlier that the Perrysburg store still had POA,
12 what were you referring to?

13 A. Power of attorney.

14 Q. Okay. And what specifically power of
15 attorney? What were the facts around the power of
16 attorney that you're referencing?

17 A. So, our specific people in Perrysburg
18 have power of attorney. They have authorization
19 basically for our stores to order the controlled
20 substances to receive the controlled substances in
21 our stores. So, they have a power of attorney over
22 all our stores.

23 Q. When you say "stores," you mean the --

24 A. Our pharmacies.

1 Q. -- the retail pharmacies?

2 A. Yes.

3 Q. So, Perrysburg, the distribution center
4 got shut down, still has POA to order on behalf of
5 the retail pharmacies?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. Perrysburg is not closed. I'm not sure
9 what you mean by "shut down." They're not closed
10 today.

11 BY MR. MOUGEY:

12 Q. Walgreens shut down Perrysburg and its
13 ability to ship or distribute Schedule II and
14 Schedule III prescription opiates, correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. Walgreens stopped shipping controlled
18 substances out of Perrysburg to our stores, yes.

19 BY MR. MOUGEY:

20 Q. What's the difference between stopped
21 and shut down, the difference in distributing
22 prescription opiates?

23 A. Shut down means the facility is shut
24 down, and the facility is open and they're

1 distributing medication today.

2 Q. So, all that was shut down at Perrysburg
3 was Schedule II and Schedule III distribution of
4 prescription opiates, correct?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I believe that ultimately Walgreens
8 shipped shipping controlled substances out of
9 Perrysburg, yes.

10 BY MR. MOUGEY:

11 Q. So, by June of 2013 you are -- you were
12 aware that both Jupiter and Perrysburg distribution
13 centers were no longer shipping prescription
14 opiates, correct?

15 MS. SWIFT: Objection; foundation.

16 BY THE WITNESS:

17 A. I don't know that I knew in June that
18 Perrysburg or Jupiter had stopped completely
19 shipping controlled substances. I don't know that
20 to be a fact.

21 BY MR. MOUGEY:

22 Q. When do you recall Perrysburg shipping
23 its distribution responsibilities to Cardinal?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. My understanding or my -- my
3 recollection was this started at some point in the
4 spring of 2013 where they started transitioning
5 controlled substances, C-II controlled substances
6 to Cardinal and Perrysburg was no longer shipping.

7 BY MR. MOUGEY:

8 Q. Do you have any understanding, and I'm
9 going back to the settlement and memorandum of
10 understanding -- memorandum of agreement between
11 Walgreens and the United States, that Walgreens
12 represented to the DEA that it was going to be
13 getting out of the distribution business?

14 MS. SWIFT: Objection; foundation.

15 BY THE WITNESS:

16 A. No.

17 BY MR. MOUGEY:

18 Q. No. When I say "getting out of the
19 distribution business," I should have asked
20 specifically about Schedule II and Schedule III
21 prescription opiates.

22 A. No.

23 Q. No. Okay. Now, ultimately Perrysburg's
24 distribution responsibilities for Schedule II and

1 Schedule III prescription opiates were transferred
2 to Cardinal, correct?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. I believe that there was a point where
6 Perrysburg stopped shipping controlled substances
7 to our stores.

8 BY MR. MOUGEY:

9 Q. I hand you what is marked as Daugherty
10 19 -- 18.

11 (WHEREUPON, a certain document was
12 marked as Walgreens-Daugherty
13 Deposition Exhibit No. 18: 3/20/13
14 e-mail string; WAGMDL00303186 -
15 0030387.)

16 BY MR. MOUGEY:

17 Q. Do you see at the top of this e-mail on
18 Bates No. 86 your name copied in an e-mail from
19 Denman Murray?

20 A. Denman.

21 Q. Denman. So, you do see your name up
22 there?

23 A. Yes.

24 Q. Okay. And who is Denman Murray?

1 A. So, Denny Murray is the director in
2 inventory, the inventory team.

3 Q. And you see the subject line is
4 "Cardinal Red Store Status."

5 A. Yes.

6 Q. That's March 20 of 2013 on this e-mail,
7 correct?

8 A. Yes.

9 Q. Does that refresh your recollection
10 about when Perrysburg distribution center had
11 transferred its responsibilities for Schedule II
12 and Schedule III prescription opiates to Cardinal?

13 A. I think I had said that my recollection
14 was that Perrysburg began the process of not
15 shipping controlled substances around the spring of
16 2013.

17 Q. So, within, let's just say, a month and
18 a half of receiving the subpoena from the DEA,
19 Perrysburg DC had shifted its responsibility for
20 prescription opiate distribution to Cardinal,
21 correct?

22 A. I don't know if they had completely
23 shifted their responsibility. I had no knowledge
24 of when they stopped shipping controlled

1 substances.

2 Q. Now, if I use the term "red store," do
3 you know what that means in the context of
4 Cardinal's red flag system?

5 MR. BUSHUR: Objection; form.

6 BY THE WITNESS:

7 A. I think this was stores that Cardinal
8 had flagged and wanted to receive additional
9 information from Walgreens on.

10 BY MR. MOUGEY:

11 Q. So, let's start at the back of this
12 e-mail which starts at the bottom of page 86. Rex
13 Swords to Kermit Crawford with the subject
14 "Cardinal Red Store Status."

15 "Just a quick update on red store
16 status. Remember, these are stores that are still
17 servicing from Perrysburg until Cardinal clears
18 them for shipment of narcotic pain medications."

19 Do you see that?

20 A. Yes.

21 Q. What does it mean or what is the
22 reference that Cardinal is clearing for shipment
23 narcotic pain medication?

24 MS. SWIFT: Objection; form.

1 BY THE WITNESS:

2 A. I don't know what Rex meant. My
3 understanding was that Cardinal had submitted
4 questionnaires for select stores and had asked us
5 to provide some documentation and information on
6 select stores.

7 BY MR. MOUGEY:

8 Q. And, so, some of the stores had not
9 cleared to be transferred to Cardinal, correct?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. I don't know. I didn't -- I wasn't
13 involved in that -- I just was involved in
14 providing the documentation and information to the
15 questionnaires to Cardinal.

16 BY MR. MOUGEY:

17 Q. And the e-mail goes on, "As on Monday,
18 Cardinal has reviewed 169 of the 380 stores, of
19 which 118 are now 'green' and will be serviced by
20 Cardinal."

21 Do you see that?

22 A. Yes.

23 Q. "This leaves us with over 250 stores
24 which remain in red status. As a reminder, we told

1 the DEA we were in the process of winding down
2 controlled substance distribution from Perrysburg."

3 Do you see that?

4 A. Yes.

5 Q. "We have an April 1st target to
6 discontinue controlled substance distribution from
7 Perrysburg, which means if these stores are not
8 cleared by Cardinal by that date, they will no
9 longer receive any narcotic pain medications."

10 Did I read that correctly?

11 A. Yes.

12 Q. "Based on our announcement yesterday, my
13 concern is Cardinal may not be as aggressive at
14 resolving these stores and ultimately servicing
15 them. Cardinal canceled our scheduled meeting that
16 we use to review stores and have received reports
17 of store review visits now being canceled by
18 Cardinal."

19 Do you see that?

20 A. Yes.

21 Q. What was the sense of urgency that
22 Walgreens told the DEA it would be winding down
23 controlled substance distribution from Perrysburg?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I don't know.

3 BY MR. MOUGEY:

4 Q. Why would Walgreens push to wind down
5 its distribution center and risk having patients
6 not being able to access controlled substances?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. I don't know.

10 BY MR. MOUGEY:

11 Q. Did you ever ask?

12 A. No, I didn't.

13 Q. Did anybody ever tell you?

14 A. No.

15 Q. There is still another distribution
16 center at this point in time in Woodland,
17 California that were distributing Schedule II and
18 Schedule IIIs, correct?

19 A. Yes.

20 Q. Did it dawn on you that maybe you'd want
21 to know what had happened in this distribution
22 center and what the sense of urgency was and what,
23 if any, impact it had on the distribution centers?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I was not involved in the business
3 decision on making this determination for
4 Perrysburg, no.

5 BY MR. MOUGEY:

6 Q. I didn't ask you if you were involved in
7 making the business decision. What I asked was did
8 you want to know what happened to the distribution
9 centers and what the sense of urgency was and what
10 impact, if any, it had on the Woodland, California
11 distribution center?

12 MS. SWIFT: Object to the form, compound.

13 BY THE WITNESS:

14 A. Did I want to know what happened to the
15 distribution center?

16 BY MR. MOUGEY:

17 Q. You were the one, you're responsible --
18 you are one of four people looking at suspicious
19 orders at Walgreens, identifying them and reporting
20 them to the DEA.

21 Aren't you wondering what in the world
22 are we doing winding down our distribution center
23 and transferring it over to Cardinal? What's the
24 deal?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. Honestly, I did not wonder that, no.

4 BY MR. MOUGEY:

5 Q. Was it because your job was defined as
6 implementing Walgreens' Good Faith Dispensing
7 policies at the pharmacy level rather than at the
8 distributor level?

9 MS. SWIFT: Object to form. Was what because?

10 BY THE WITNESS:

11 A. I don't understand your question.

12 BY MR. MOUGEY:

13 Q. It sounds a lot like what Kate said
14 again.

15 MS. SWIFT: Ask a clear question.

16 BY THE WITNESS:

17 A. Can you clarify it?

18 BY MR. MOUGEY:

19 Q. No.

20 MR. MOUGEY: I'm just so sick and tired of the
21 not understanding what a proper objection is.

22 We have been marking every single one of
23 these, and I'm going -- this is ridiculous. I
24 mean, this is absolutely ridiculous. All day long

1 you've interjected yourself into this record
2 despite my repeated requests to stop and then the
3 witness repeats your answer. It's just ridiculous.

4 This is like five depositions. You've
5 put up all of these people to testify. None of
6 them know anything about anything. And then you
7 intersperse your objections on the record and they
8 repeat it.

9 So, let's do it again.

10 MS. SWIFT: The record will reflect what
11 actually --

12 MR. MOUGEY: I'm sure it will.

13 MS. SWIFT: -- has been happening in all of
14 these depositions, Peter.

15 MR. MOUGEY: Which is no one knows anything
16 about anything. If I had to count how many times
17 "I don't know" was today, I would need
18 Ms. Daugherty's phone calculators.

19 MS. SWIFT: Well, if you're done with your
20 speech, you can continue your deposition.

21 MR. MOUGEY: I am, but we'll definitely
22 address this again because these are people you've
23 put up. These are people you've identified to
24 understand what went on.

1 And we're talking about two months after
2 Ms. Daugherty arrives at Walgreens, the -- one of
3 the three Schedule II and Schedule III distribution
4 centers are shut down and within six months of
5 getting there, two of the three are shut down.

6 MS. SWIFT: Do you have a question? You have
7 been putting legal opinions in front of her, things
8 she has never seen before all day. The things
9 you're asking her about right now happened five,
10 six years ago.

11 MR. MOUGEY: During her four months' worth of
12 relevant knowledge base that we're supposed to be
13 figuring out what Walgreens' policies are. So,
14 purge documents and witnesses that don't know
15 anything.

16 MS. SWIFT: Object to the speech and the
17 argumentative nature of the way you are handling
18 this deposition. We'll mark it too.

19 MR. MOUGEY: So far you have all done great
20 with your practices.

21 MS. SWIFT: We'll mark all of it, Peter.

22 MR. MOUGEY: Mark away.

23 MS. SWIFT: You, too.

24 MR. MOUGEY: Produce the documents after depos

1 close, purging, notes in files that we haven't
2 produced. You name it, we got it.

3 MS. SWIFT: You're misrepresenting the
4 testimony wildly.

5 MR. MOUGEY: Oh, yeah.

6 BY MR. MOUGEY:

7 Q. Your job at Walgreens was to implement
8 and monitor the Targeted Good Faith Dispensing
9 policies, correct?

10 A. That was one of my jobs, yes.

11 Q. That was your primary role and that's
12 the reason why it didn't even concern you that
13 distribution centers were closing, correct?

14 MS. SWIFT: Objection, argumentative.

15 BY THE WITNESS:

16 A. That was one of my roles, to make sure
17 that our pharmacists were aware of good faith
18 dispensing. My initial role in coming on in the
19 Rx Integrity department was to review flagged
20 orders and determine which ones were suspicious and
21 report them. I would say that was the majority of
22 what I was trained on when I first started.

23 BY MR. MOUGEY:

24 Q. So, within six months of starting at

1 Walgreens, two of the three distribution centers
2 are closed down, correct, Schedule II and
3 Schedule III?

4 MS. SWIFT: Objection; foundation.

5 BY THE WITNESS:

6 A. I don't know that to be true within six
7 months. I said I don't remember when it actually
8 happened.

9 BY MR. MOUGEY:

10 Q. Well, we just went through the
11 memorandum of agreement with the DEA that
12 references the Jupiter center closing, correct?

13 A. I don't recall --

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. -- looking at that. Sorry.

17 BY MR. MOUGEY:

18 Q. The memorandum of agreement --

19 A. Yes.

20 Q. -- that we went just through. The big
21 thick document --

22 A. Yes.

23 Q. -- with the binder in it, right?

24 A. Yes.

1 Q. And you recall that that discusses the
2 Jupiter distribution center unwinding its business
3 or winding down, correct?

4 MS. SWIFT: Objection; mischaracterizes the
5 document.

6 BY THE WITNESS:

7 A. I would need to look at it again.

8 BY MR. MOUGEY:

9 Q. Go ahead. You want to look at it, fine.

10 MS. SWIFT: Do you want to point her to what
11 you're talking about?

12 BY THE WITNESS:

13 A. I see that it's registered with the DEA.
14 I'm not sure what you're referring to. We went
15 over 1 through 10 on 963 or 63 I should say.

16 BY MR. MOUGEY:

17 Q. Look on page 6 of 13, paragraph E.

18 A. E?

19 Q. E as in Ed.

20 A. Okay.

21 Q. Do you see "Walgreens agrees to
22 surrender" -- "to the surrender of the DEA
23 registrations to dispense controlled substances for
24 Schedules II through V at the following

1 facilities," correct?

2 A. Yes.

3 Q. On page 5 of 13, under C, "Walgreens
4 agrees to the surrender of Walgreens Jupiter's DEA
5 registration for controlled substances Schedules II
6 through V until September 13, 2014."

7 Do you see that?

8 A. Yes.

9 Q. So, as of this document that you
10 e-mailed around, that you were on the e-mail in
11 June of 2013, Walgreens' Jupiter distribution
12 center was surrendering its license to distribute
13 Schedules II through V until September 13 of 2014,
14 correct?

15 MS. SWIFT: Objection; foundation.

16 BY THE WITNESS:

17 A. It says that Walgreens agreed to
18 surrender the DEA registration --

19 BY MR. MOUGEY:

20 Q. And you were --

21 A. -- for Jupiter.

22 Q. You were aware of that. That was in
23 your e-mail in June of 2013, correct?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I don't know that I was aware of that.
3 I think I said that my focus was on a different
4 section of the settlement. I don't remember
5 reading many of these pages in the settlement at
6 the time.

7 BY MR. MOUGEY:

8 Q. So, now, an e-mail that you are included
9 on from Denman Murray on 3/20/2013, within a matter
10 of two to three months, two of the three
11 distribution centers for Walgreens were winding
12 down for its distribution of Schedule II and III
13 prescription opiates, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't know that to be true.

17 BY MR. MOUGEY:

18 Q. SharePoint. Are you familiar with
19 Walgreens' internal system SharePoint?

20 A. Yes.

21 Q. And what did you use SharePoint for?

22 MS. SWIFT: Object to the form.

23 BY MR. MOUGEY:

24 Q. Did you use SharePoint?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. I don't recall using SharePoint. I do
4 use SharePoint today.

5 BY MR. MOUGEY:

6 Q. And when do you recall beginning to use
7 SharePoint?

8 A. I know what I use SharePoint for today.
9 Honestly, I probably started, that I can recall,
10 using it last year, possibly the year before.

11 Q. And what have you used it for in the
12 last year or so?

13 A. We have a communications SharePoint for
14 logging communications for approval to go out on
15 certain dates, for collecting documentation, for
16 our DEA 106 information to put together additional
17 training to our pharmacists, just for collecting
18 documentation as a group and training our
19 pharmacists around the DEA 106 process.

20 Q. Was anyone in your group using
21 SharePoint, when you say "your group,"
22 Pharmaceutical Integrity, prior to the time you
23 began using it a year or so ago?

24 MS. SWIFT: Objection; foundation.

1 BY THE WITNESS:

2 A. Not that I know of.

3 BY MR. MOUGEY:

4 Q. Was it -- when you say not that you know
5 of, you've been on it in the last year or so,
6 correct?

7 A. I've been using it. But SharePoint has
8 specific access. So, my understanding is that like
9 not everyone can access everyone else's SharePoint
10 site.

11 So, I have access to the communications
12 site, but I don't know if everyone in the company
13 has access to that communication site because it's
14 a pharmacy communications primarily geared site.

15 Q. So, can any other Pharmaceutical
16 Integrity employees or staff, are they able to use
17 or see the documents you have on SharePoint?

18 A. For which SharePoint site?

19 Q. Whichever. All of them.

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. I know that two of my employees have
23 access to the SharePoint site. I don't know of the
24 other employees. The other employees don't report

1 directly to me. So, I don't know firsthand if they
2 can access.

3 BY MR. MOUGEY:

4 Q. Do you all not talk about where you
5 store documents in your internal meetings?

6 A. We don't store documents in our internal
7 meetings. We store -- we log I should say
8 communications for approval, and that's general for
9 pharmacy operations. So, it's broader than just
10 our team. It involves a number of other teams.

11 I believe my team can access it. I
12 don't know firsthand if they all can, though.

13 Q. Are there any other internal systems
14 that Rx Integrity uses to keep shared resources
15 from 2013 up until the current time?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. No, we primarily keep everything in our
19 e-mail, our Rx Integrity e-mail or our own personal
20 e-mail or the DEArecordsrequest e-mail when the
21 subpoenas come through in that e-mail.

22 BY MR. MOUGEY:

23 Q. Other than SharePoint, which you just
24 referenced?

1 A. For communication planning, yes.

2 Q. And other than CSO, which you identified
3 earlier, correct?

4 A. Yes, also in the CSO KPI tool.

5 Q. Anything other than CSO, SharePoint and
6 your e-mail where you've stored or keep documents
7 related to your role in Pharmaceutical Integrity?

8 A. No, not that I'm aware of. We may have
9 some paper documentation early on in our files.
10 But, honestly, I can't recall what it entails.

11 Q. When you say in your files, what do you
12 mean?

13 A. In our -- in our drawers.

14 Q. Has anybody come and asked you for your
15 drawers?

16 A. Yes.

17 Q. And are there any drawers that you
18 didn't produce in this course of this litigation?

19 A. Not that I know of.

20 Q. Okay. Other than --

21 A. We had a very small limited amount of
22 paper that I believe we provided already.

23 Q. Other than the -- your desk drawer with
24 the notes in it you referenced earlier, correct?

1 A. Yes.

2 Q. And how about manuals and training
3 material. Where is all that kept or stored, if you
4 know?

5 A. So, manuals and training materials for?

6 Q. For Pharmaceutical Integrity. Just --

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. We store our policies and our procedures
10 on our shared Rx Integrity site in a folder.

11 BY MR. MOUGEY:

12 Q. So, we have -- what is the shared
13 Rx Integrity site?

14 A. It's just on a separate drive. So,
15 where I have my own personal drive and there is
16 also a shared site for our group that can access.

17 Q. Okay. So, you have your shared site
18 where you keep documents, correct?

19 A. Yes, and my personal site as well.

20 Q. And then your personal site?

21 A. Yes.

22 Q. And then there is SharePoint where you
23 also keep documents, correct?

24 A. Yes, for communication purposes, yeah.

1 Q. And you also keep some documents in your
2 e-mail, correct?

3 A. Yes.

4 Q. And --

5 A. And in the CSO KPI tool.

6 Q. In the CSO tool. And how do you make
7 the distinction about what goes on SharePoint and
8 the Pharmaceutical Integrity site?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. So, the SharePoint site is for pharmacy
12 communications in general for every department, and
13 that's just for logging any communication that we
14 send out to our stores.

15 I also have a SharePoint site again for
16 DEA 106 training to our pharmacists, so specific to
17 DEA 106 training.

18 And then as far as the shared site that
19 our team shares, I -- those are where we place our
20 policies, our procedures, our updated policies,
21 information that everyone can access.

22 BY MR. MOUGEY:

23 Q. How about organizational charts, do you
24 have access to Walgreens' organizational charts on

1 any of Walgreens' internal sites?

2 A. Yes.

3 Q. How far back are those organizational
4 charts available? How long have they been
5 available?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. I've been able to access an
9 organizational chart, as early as I can remember,
10 2014 where I would be able to look up a director,
11 for example, and see the people that report to that
12 director.

13 MR. MOUGEY: I don't have anything else.

14 Thank you, Ms. Daugherty.

15 MS. SWIFT: I have got a few questions.

16 THE WITNESS: Okay.

17 MS. SWIFT: If you can stand it.

18 EXAMINATION

19 BY MS. SWIFT:

20 Q. Good afternoon, Ms. Daugherty. How are
21 you doing?

22 A. Good. Thank you.

23 Q. I'll ask you first a few questions about
24 your background, your education.

1 I believe you testified you have a
2 PharmD?

3 A. Yes.

4 Q. What is a PharmD?

5 A. It's a Doctor in Pharmacy.

6 Q. When did you get your PharmD?

7 A. 2000.

8 Q. Where did you go to school for your
9 PharmD?

10 A. Midwestern University.

11 Q. Where is Midwestern University?

12 A. It's in Downers Grove.

13 Q. Is that a suburb of Chicago?

14 A. Yes.

15 Q. Did you get your undergraduate degree at
16 Midwestern as well?

17 A. Yes. My Bachelor's in pharmacy.

18 Q. Do you live here in Chicago?

19 A. Yes.

20 Q. Has it always been the case? Did you
21 grow up here?

22 A. I wasn't born here, but yes.

23 Q. I believe you said that your first job
24 at Walgreens was as a pharmacy technician, is that

1 right?

2 A. Yes.

3 Q. When were you first a pharmacy
4 technician at Walgreens?

5 A. To the best of my recollection, I
6 believe it was 1996. I started when I was in
7 school.

8 Q. What does a pharmacy technician do?

9 A. So, a technician typically types in the
10 prescription in the Intercom Plus system and our
11 adjudication system. They can fill and count the
12 medication, and then they also can charge the
13 patient or ring up the patient at the register.

14 Q. Can the pharmacy tech actually dispense
15 medication?

16 A. No.

17 Q. Did you also work as a pharmacist at
18 Walgreens?

19 A. Yes.

20 Q. What years did you work as a pharmacist
21 at Walgreens?

22 A. I started in 1999 when I got my
23 Bachelor's in pharmacy, and I want to say --
24 honestly, I think I started at Walgreens Health

1 Initiatives around 2000, 2003, 2000, something like
2 that.

3 Q. So, from 1999 until you started at
4 Walgreens Health Initiatives in around 2002 you
5 worked as a pharmacist?

6 A. Yes.

7 Q. Is that right?

8 Do you have to be licensed to be a
9 pharmacist in Illinois?

10 A. Yes.

11 Q. Is that true all over the country?

12 A. You have to be licensed in the state
13 that you're practicing, yes.

14 Q. Do you have to take an exam to become a
15 licensed pharmacist?

16 A. Yes.

17 Q. What does a pharmacist do, just as a
18 general matter?

19 A. So, a pharmacist reviews prescriptions,
20 dispenses prescriptions to a patient.

21 Q. Did you ever work anywhere else as a
22 pharmacist besides Walgreens?

23 A. No.

24 Q. You spent a number of years working at

1 various PBMs, is that right?

2 A. Yes.

3 Q. What is a PBM, just from your
4 perspective?

5 A. A PBM is a pharmacy benefits manager.
6 So, we manage prescription insurance essentially.

7 Q. At a certain point you came back to work
8 at Walgreens after working at a PBM, is that right?

9 A. Yes.

10 Q. Was that in January of 2013?

11 A. Yes.

12 Q. In your words, what does the group that
13 you work at in Walgreens do, the Pharmaceutical
14 Integrity group?

15 A. Our team manages flagged orders, reviews
16 orders for approval if a store requests additional
17 product. We oversee our CSO KPI tool. We manage
18 our DEA 106 submissions to the DEA and work with
19 our pharmacies. We also oversee the Naloxone
20 program, the Safe Med Disposal program and we
21 respond to DEA subpoenas.

22 Q. We'll break that down a little bit, but
23 the first question I have for you about what you
24 just said is: Since you've been working in

1 Pharmaceutical Integrity at Walgreens, have you
2 received training on Walgreens' policies and
3 procedures that have helped you do your job?

4 A. Yes.

5 Q. Is the training that you receive at
6 Walgreens ongoing today?

7 A. Yes.

8 Q. Have you received training on Walgreens'
9 policies with respect to order monitoring?

10 A. Yes.

11 Q. Does that include training on Walgreens'
12 policies with respect to suspicious order
13 monitoring?

14 A. Yes.

15 Q. You were asked questions today about
16 whether you had a training manual or a training
17 package. Do you remember those questions?

18 A. Yes.

19 Q. Did you receive the information that you
20 needed to do your job when you started in
21 Pharmaceutical Integrity in 2013?

22 A. Yes.

23 Q. Do the policies and procedures that you
24 follow at Walgreens in Pharmaceutical Integrity, do

1 those policies and procedures change over time for
2 a variety of reasons?

3 A. Yes.

4 Q. I want you to turn back, please, to
5 Exhibit 14. Do you have it?

6 A. Yes.

7 Q. Exhibit 14 is the e-mail, it's a chain
8 that ends with an e-mail from you to Tasha Polster
9 and it attaches a document called Settlement and
10 Memorandum of Agreement. Correct?

11 A. Yes.

12 Q. I believe you testified that as part of
13 your job in the time frame of this e-mail, it's
14 dated June 12, 2013, that you reviewed parts of
15 this memorandum and agreement, is that right?

16 A. Yes.

17 Q. Which parts did you review as a part of
18 your job in roughly in the 2013 time frame?

19 A. So, primarily if you flip to after
20 page 13, it's called "Addendum: Prospective
21 Compliance"; and it relates to Walgreens Integrity
22 Department responding to the DEA within two
23 business days. It talks about forming an
24 Rx Integrity team, and then it goes on into the

1 rest of the document.

2 Q. Did you walk through this addendum to
3 the 2013 memorandum and agreement with others on
4 your team at the time?

5 A. Yes.

6 Q. Who did you discuss this addendum to the
7 memorandum of agreement with at your job?

8 A. Eric Stahmann, Ed Bratton and Tasha
9 Polster.

10 Q. Was Pharmaceutical Integrity, the group
11 that you're in today, was it already up and running
12 at this time in June of 2013 when this settlement
13 was entered?

14 A. Yes.

15 Q. As far as you know, did your team in
16 Pharmaceutical Integrity make sure to do all the
17 things that are laid out in the addendum to the
18 memorandum of agreement that's marked as
19 Exhibit 14?

20 A. Yes. We reviewed each item and made
21 sure that we were following each item in this
22 "Addendum: Prospective Compliance."

23 Q. Briefly, how do Walgreens pharmacies
24 place orders for controlled substances?

1 A. So, our SIMS system actually suggests
2 orders and places the orders on the store's behalf.
3 Should the store want to place an additional order
4 on top of the suggested order, they have to go
5 through our ceiling to determine whether the item
6 either is over that -- that particular pharmacy's
7 ceiling or over their tolerance on a daily basis
8 and if, for example, it is, they have to request
9 the order directly to our team for approval.

10 Q. What systems are in place to make sure
11 pharmacies don't order more controlled substances
12 than they need? You mentioned a ceiling. Is that
13 something that you have previously referred to
14 today as the CSO KPI tool?

15 A. Yeah, the CSO KPI tool has a ceiling for
16 each item for each pharmacy as well as a tolerance
17 meaning how much they can order per order, so per
18 instance, and if the store places an order over and
19 above their tolerance or their ceiling, the order
20 is canceled.

21 Q. What is the difference between a store's
22 tolerance and a store's ceiling limit?

23 A. So, the ceiling is the most they can
24 order in a rolling six-week period and the

1 tolerance is what the amount they can order per
2 order, per instance.

3 Q. Am I understanding you correctly, are
4 there limits for both ceiling and tolerance?

5 A. Yes.

6 Q. For every store?

7 A. Yes. And they're calculated daily for
8 each store for each item.

9 Q. Are the limits for ceiling and tolerance
10 the same for every Walgreens pharmacy?

11 A. No, they vary.

12 Q. Are the limits for ceiling and tolerance
13 the same for an individual pharmacy from one day to
14 the next?

15 A. They're different every day.

16 Q. If a pharmacy wants more than the
17 suggested order that they get from the SIMS system,
18 I believe you just touched on this. Does a store
19 have to go through your team to go above the
20 suggested order?

21 A. If the -- if the order that they want,
22 if they want more than exceeds their ceiling or
23 their tolerance, they have to go through our team,
24 yes, for approval.

1 Q. What is good faith dispensing?

2 A. So, our good faith dispensing defines
3 the pharmacist's responsibility, corresponding
4 responsibility, to determine whether a prescription
5 is legitimate.

6 Q. Is good faith dispensing, is that a
7 policy that's specific to Walgreens?

8 A. As far as I know, yes.

9 Q. Do Walgreens' pharmacists receive
10 training on the Walgreens Good Faith Dispensing
11 policy?

12 A. Yes.

13 Q. How often?

14 A. Every year.

15 Q. What is Target Drug Good Faith
16 Dispensing?

17 A. So, Target Drug Good Faith Dispensing
18 includes select drugs where pharmacists have to
19 document and follow a checklist each time they fill
20 a prescription for a target drug.

21 Q. Do Walgreens pharmacists receive
22 training on the Target Drug Good Faith Dispensing
23 policy as well?

24 A. Yes.

1 Q. Have you received training on both of
2 those policies?

3 A. Yes.

4 Q. How do you communicate those policies,
5 the Good Faith Dispensing policy and the Target
6 Drug Good Faith Dispensing policy, to the
7 pharmacists at Walgreens?

8 A. We communicate it through our online
9 learning tool as well as through various
10 communications --

11 Q. Do those --

12 A. -- to our pharmacies.

13 Q. Do those communications come from the
14 Pharmaceutical Integrity group?

15 A. Yes.

16 Q. If a pharmacist isn't comfortable
17 filling a prescription, are they required to fill
18 it for any reason?

19 A. No.

20 Q. If a pharmacist isn't comfortable
21 filling a prescription, does Walgreens have a
22 policy about what they're supposed to do?

23 A. They have the right to refuse the
24 prescription if they don't believe the prescription

1 to be legitimate.

2 Q. Does Walgreens issue blanket refusal to
3 fill orders with respect to doctors?

4 A. No, we do not.

5 Q. You got some questions today about DEA
6 subpoenas. Do you remember those questions?

7 A. Yes.

8 Q. You said that part of your job is
9 responding to subpoenas from the DEA. What kinds
10 of subpoenas did you mean?

11 A. Primarily prescription subpoenas or
12 subpoenas for hard copy prescriptions
13 documentation.

14 Q. How do you respond to those requests
15 from the DEA?

16 A. So, our team pulls the data and
17 typically either e-mails it back encrypted or
18 sometimes if they're paper copies, they will FedEx
19 them.

20 Q. Does your team take requests from the
21 DEA seriously?

22 A. Yes.

23 Q. Does that -- is that true no matter what
24 kind of a request it is?

1 A. Yes.

2 Q. Do you do your best to respond to any
3 requests from the DEA fully and completely?

4 A. Yes.

5 Q. Do you do your best to cooperate with
6 the DEA?

7 A. Yes.

8 Q. Has it always been the case while you've
9 been at Walgreens?

10 A. Yes.

11 Q. I want to ask you some questions about
12 your time as a pharmacist at Walgreens. I believe
13 you said you were a pharmacist from 1999 to 2002
14 after pharmacy school, is that right?

15 A. Yes.

16 Q. When you were a pharmacist at Walgreens
17 in the '99 to 2002 time frame, did you have a
18 professional responsibility to make sure that
19 prescriptions that you filled were only for
20 legitimate medical purposes?

21 A. Yes.

22 Q. If you couldn't confirm for yourself
23 that a prescription was legitimate, would you fill
24 it?

1 A. No.

2 Q. You mentioned when I asked you what
3 Pharmaceutical Integrity does, the group that you
4 work for today, you mentioned something about med
5 take-back or med kiosks. Did I hear that
6 correctly?

7 A. Yes.

8 Q. What is -- what were you referring to?

9 A. So, in select stores around the country,
10 Walgreens has a drug take-back kiosk, so patients
11 and customers can bring their medications and
12 dispose of them safely in the kiosk.

13 Q. Can someone come to a Walgreens pharmacy
14 and with expired medication or any kind of
15 medication that they are bringing in that they
16 haven't just received from the pharmacist and hand
17 it over to a pharmacist?

18 A. No. They have to actually place it in
19 the kiosk.

20 Q. Do you know why that is?

21 A. That's according to law is my
22 understanding.

23 Q. Do you know how many medication
24 take-back kiosks Walgreens has at its pharmacies

1 around the country?

2 A. I think we're about 1,080 right now,
3 roughly.

4 Q. Is that changing over time?

5 A. Yes, that's increasing over time.

6 Q. You also mentioned something about
7 Naloxone when I asked you what your group does
8 today. What were you referring to?

9 A. So, several years ago, as states started
10 allowing our pharmacies to dispense Naloxone
11 without a prescription, based on the state
12 regulations state by state we would implement our
13 Naloxone program to allow our pharmacists to
14 dispense to a customer asking for Naloxone without
15 a physician's prescription.

16 We would dispense it under a standing
17 order or under the pharmacist NPI, so via their
18 pharmacist prescriptive authority per the state.

19 Q. Do you know how many states allow
20 Walgreens to dispense Naloxone without a
21 prescription?

22 A. I think we're at 48 today.

23 MS. SWIFT: I do not have any other questions.

24

1 FURTHER EXAMINATION

2 BY MR. MOUGEY:

3 Q. Ms. Daugherty, did you or your group
4 actually respond to the Perrysburg subpoenas,
5 meaning did you produce documents responsive?

6 MS. SWIFT: Objection; foundation.

7 BY THE WITNESS:

8 A. Not that I know of, no.

9 BY MR. MOUGEY:

10 Q. Pardon me? I couldn't hear you over
11 Ms. Swift.

12 A. Not that I know of. Sorry.

13 Q. Who would know the answer to that of
14 whether or not Walgreens responded to the
15 Perrysburg subpoenas?

16 Sorry. That's kind of a bad question.

17 When I say "responded," I mean produce
18 documents responsive to the subpoenas.

19 A. I don't know for sure. I would assume
20 our internal attorneys would know.

21 Q. When you mentioned earlier that you were
22 responsible for, I think you said, managing or the
23 DEA subpoenas, what did you mean?

24 A. We respond to DEA subpoenas. So, if

1 there is a prescription records request, our team
2 will pull the data that the DEA investigator is
3 asking for.

4 Q. How come the subpoena to the Perrysburg
5 distribution center wasn't responded to by your
6 group as you would with the pharmacy subpoenas?

7 A. So, at the time that the -- my
8 understanding when you showed me the document for
9 the Perrysburg subpoena, I don't think we were
10 responding to every single subpoena because we
11 didn't have a dedicated e-mail box at that time.

12 Q. Okay. During your tenure with
13 Pharmaceutical Integrity, were pharmacists
14 receiving bonuses for the amount of prescriptions
15 they filled?

16 A. Yes.

17 Q. And did you think it was a good practice
18 in your role at Pharmaceutical Integrity for
19 pharmacists to be bonused based on the amount of
20 prescriptions they filled for Schedule II and III
21 narcotics in light of the opiate epidemic?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. I don't know if it was a good practice.

1 BY MR. MOUGEY:

2 Q. You don't know. Do you understand how
3 that potentially could be a conflict of interest
4 for a pharmacist to fill a prescription for
5 Schedule II and III prescription opiates when
6 making a decision whether to dispense based on GFD?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. No. In my position as a pharmacist, I
10 don't know. We worked for Walgreens the chain and
11 our job was to fill the prescriptions and make sure
12 they were filled legitimately.

13 To the best of my recollection, the
14 bonus was very small and I don't understand it
15 because I don't feel like there was any incentive
16 to fill more controlled substance prescriptions.

17 BY MR. MOUGEY:

18 Q. So, bonuses wouldn't impact any of the
19 pharmacists when making a decision whether to fill
20 Schedule II and III prescriptions?

21 A. In my opinion I don't think so.

22 Q. And you don't see any potential conflict
23 of interest with pharmacists being bonused based on
24 Schedule II and III opiate prescriptions?

1 A. In my role as a pharmacist, our job was
2 to still fill legitimate controlled substance
3 prescriptions.

4 Q. So, the answer is no, you don't see any
5 potential conflict of interest with pharmacists
6 being bonused based on Schedule II and III opiate
7 prescriptions?

8 A. In my experience in my role, no.

9 MR. MOUGEY: I don't have anything further.
10 Thank you.

11 MS. SWIFT: We're done.

12 THE VIDEOGRAPHER: We're going off the record
13 at 5:08 p.m.

14 (Time Noted: 5:08 p.m.)

15 FURTHER DEPONENT SAITH NAUGHT.

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I, CORINNE T. MARUT, C.S.R. No. 84-1968,
Registered Professional Reporter and Certified
Shorthand Reporter, do hereby certify:

3

That previous to the commencement of the
examination of the witness, the witness was duly
sworn to testify the whole truth concerning the
matters herein;

5

That the foregoing deposition transcript
was reported stenographically by me, was thereafter
reduced to typewriting under my personal direction
and constitutes a true record of the testimony
given and the proceedings had;

8

That the said deposition was taken
before me at the time and place specified;

9

That the reading and signing by the
witness of the deposition transcript was agreed
upon as stated herein;

10

That I am not a relative or employee or
attorney or counsel, nor a relative or employee of
such attorney or counsel for any of the parties
hereto, nor interested directly or indirectly in
the outcome of this action.

13

14

CORINNE T. MARUT, Certified Reporter

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(The foregoing certification of this
transcript does not apply to any
reproduction of the same by any means, unless under
the direct control and/or supervision of the
certifying reporter.)

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1 INSTRUCTIONS TO WITNESS

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Please read your deposition over

carefully and make any necessary corrections. You
should state the reason in the appropriate space on
the errata sheet for any corrections that are made.

After doing so, please sign the errata
sheet and date it.

You are signing same subject to the
changes you have noted on the errata sheet, which
will be attached to your deposition.

It is imperative that you return the
original errata sheet to the deposing attorney
within thirty (30) days of receipt of the
deposition transcript by you. If you fail to do
so, the deposition transcript may be deemed to be
accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, PATRICIA DAUGHERTY, do hereby
certify under oath that I have read the foregoing
pages, and that the same is a correct transcription
of the answers given by me to the questions therein
propounded, except for the corrections or changes
in form or substance, if any, noted in the attached
Errata Sheet.

PATRICIA DAUGHERTY

DATE

Subscribed and sworn
to before me this

_____ day of _____, 20____.

My commission expires:_____

Notary Public

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